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Correspondence
Item No. 2a
Newport Beach Country Club
PA2005-140

RECEIVED BY
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DEVELOPMENT
AUG 01 2011
CITY OF NEWPORT BEACH

July 27, 2011

Robert O Hill
Golf Realty Fund
One Upper Newport Plaza
Newport Beach, CA 92660

Re: Proposed Transfer of Development Rights from Newport Beach Marriott Hotel (Anomaly 43) to Newport Beach Country Club (Anomaly 46); Project File No. PA2005-140

Dear Mr. O Hill:

HHR Newport Beach LLC ("HHR") owns the Newport Beach Marriott Hotel, which is located at 900 Newport Center Drive and is designated as anomaly 43 in the Newport Beach General Plan. On June 2, 2011, HHR submitted the enclosed letter to the City of Newport Beach informing it that HHR's consent is required for Golf Realty Fund's proposed transfer of development rights for 27 hotel rooms from our property to the Newport Beach Country Club.

Since we have not heard from you regarding this matter, we are writing to reiterate that our consent is required for Golf Realty Fund's proposed transfer of HHR's development rights from anomaly 43 and to invite you to discuss potential resolutions. If Golf Realty Fund is interested in purchasing HHR's development rights, it would also need to be able to demonstrate that it has any necessary consents from its partners. I invite you to call me at your earliest convenience at (240) 744-1000.

Best regards,

Jerry Haberman

Enclosure

cc: D. Andrew J. Bullard, Esq.
Paul Singarella, Esq.
Daniel Brunton, Esq.
Tim Paone, Esq.
Carol McDermott
Leonie Mulvihill, Esq., Assistant City Attorney
Kimberly Brandt, Director, Community Development Department

HHR NEWPORT BEACH LLC
% Host Hotels & Resorts, Inc.
6903 Rockledge Drive, Suite 1500
Bethesda, Maryland 20817

June 2, 2011

VIA EMAIL (RUNG@NEWPORTBEACHCA.GOV) & OVERNIGHT COURIER

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658-8915

Re: **Proposed Transfer of Development Rights from Newport Beach Marriott Hotel (Anomaly 43) to Newport Beach Country Club (Anomaly 46): Project File No. PA2005-140**

Dear Ms. Ung:

HHR Newport Beach LLC ("**HHR**") owns the Newport Beach Marriott Hotel which is located at 900 Newport Center Drive and is designated as anomaly 43 in the Newport Beach General Plan. HHR has received notice of a June 9, 2011 Planning Commission public hearing to consider the approval of an application filed by Golf Realty Fund to transfer development rights for 27 hotel rooms from our property to the Newport Beach Country Club (anomaly 46) in order to facilitate the development of 27 hotel units thereon. HHR has neither consented to nor approved the transfer of its development rights to any other property owner. Accordingly, HHR requests that the Planning Commission (1) deny the proposed transfer of development rights, and (2) instruct the applicant to revise its project application so that it does not include any transfer of development rights from anomaly 43.

The Newport Beach General Plan and Zoning Code allow anomaly 43 to be developed with up to 611 hotel rooms. The Newport Beach Marriott is currently developed with 532 hotel rooms; therefore, there is a remaining entitlement to build an additional 79 hotel rooms on the site. As the owner of anomaly 43, these development rights belong to HHR and they may not be transferred without HHR's consent. Please note that HHR has not been asked to consent to the transfer and has not consented to this transfer.

It is important to recognize that the fundamental rationale for TDR programs is to allow property owners to transfer their valuable development rights on the open market to other parcels. (See *Penn Central Transp. Co. v. New York City* (1978) 438 US 104, 121-122, 129, 137.) Transferring a development right without the owner's consent would directly contradict this intent. Furthermore, transferring private property from one person to another without the

owner's consent is an unconstitutional taking and also violates due process. (*Missouri Pac. Ry. Co. v. State of Nebraska ex rel. Board of Transportation* (1896) 164 U.S. 403, 417.)

While Newport Beach's Zoning Code does provide for the transfer of development rights, such provisions do not authorize the transfer of development rights without the consent of the holder of those rights. The owner of the donor site must agree to the transfer and a legally binding agreement must be recorded against the donor site. Newport Beach Zoning Code, section 20.46.040(F) states:

> "**Legal assurances**. A covenant or other legally binding agreement approved by the City Attorney shall be recorded against the donor site assuring that all of the requirements of the transfer of development rights will be met by the current and future property owners."

Of course, a legally binding agreement cannot be recorded against the donor site without the owner's consent. The requirement to record a legally-binding agreement against the donor site is a standard provision in TDR programs. (See attached similar provisions in Irvine Municipal Code, § 9-36-17(G)(1); Los Angeles Municipal Code, § 14.5.9(C) and 14.5.11(B); American Planning Association's Model TDR Ordinance, Section 107 [Instruments of Transfer].)

The Newport Beach General Plan also reflects that a TDR is an agreement between two property owners. Land Use Policy 6.14.3 states that:

> "Development rights may be transferred within Newport Center, subject to the approval of the City with the finding that the transfer is consistent with the intent of the General Plan and that the transfer will not result in any adverse traffic impacts."

This policy reflects that the property owners themselves are "transferring" the development rights, but that no transfer can occur without "the approval of the City."

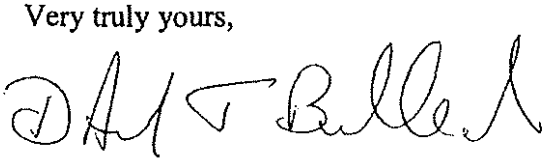
It is clear that no transfer of development rights from HHR to any other property owner can occur without HHR's express consent. Since HHR has not consented or agreed to any transfer of its development rights, we ask that the Planning Commission not approve such proposed transfer. In fact, we object to such a transfer and would have no option other than to defend our valuable property interests should any such transfer occur.

We thank you in advance for your attention to this matter and look forward to working with the City to resolve this situation. At this time, HHR has no position on the relative merits of the Golf Realty Fund development proposal, and reserves all rights with respect to same. HHR has not provided its express consent to the development rights transfer of 27 hotel rooms from anomaly 43 for the construction 27 hotel units at the Newport Beach Country Club.

Therefore, the project should be revised to provide for the hotel units in a manner which does not rely on a transfer of development rights from anomaly 43.

I look forward to hearing from you regarding this critical matter. Please contact me at 240-744-5153 or via email at andy.bullard@hosthotels.com.

Very truly yours,



D. Andrew J. Bullard
Assistant General Counsel

Attachments

cc: Mr. James Campbell, Acting Planning Director
Mr. David Kiff, City Manager
Leonie Mulvihill, Esq., Assistant City Attorney

Irvine Municipal Code
Section 9-36-17

Sec. 9-36-17. - Transfer of development rights.

A. *Intent.* It is the intent of this section to allow transfer of development rights between sites within the Irvine Business Complex. Development rights may be transferred from a sending site to a receiving site within the Irvine Business Complex subject to the approval of a master plan development case for the transfer of development rights (TDRMP) and/or conditional use permit, depending upon what is otherwise required. Approved TDRMP and/or CUP development cases shall include conceptual project plans and other required information which describe how the intensity on the receiving site shall be used. Development entitlement transferred to a receiving site through an approved TDR shall remain available for use on the project site in accordance with this section until it is used for development or transferred to another eligible site through appropriate mechanisms described in this section. All conditions of approval affiliated with a TDR approval shall continue to apply to the use of the intensity on the subject site regardless of discretionary approval expiration. If the proposed use requires a discretionary approval separate from the TDR approval, and the separate entitlement either has not been approved or has been approved but has expired, the transferred intensity may not be used unless and until the separate discretionary approval is approved. In the event the intensity is transferred to another site via a new transfer of development rights conditional use permit or master plan, any new conditions of approval shall take precedence.

B. *Determination of TDR eligibility.* Both the sending and receiving sites shall be located within the boundaries of the Irvine Business Complex (Planning Area 38).

C. *Master plan application.*

1. Applications to conduct a transfer of development rights shall include the following information for the receiving site:
   a. Conceptual site plan.
   b. Access plan option.
2. The application shall conceptually identify the proposed use of the total intensity for the receiving site and the adjusted trip budget for both the sending and receiving sites.

D. *Determination of development rights to be transferred.*

1. The master plan application is required to facilitate review of the conceptual site plan for the receiving site. As such, the materials required for a TDR master plan development case shall conceptually identify the approximate locations and configurations of development and potential access points on the receiving site as well as the corresponding distribution of intensity by legal parcel: a.m., p.m. and ADT trips, gross square feet of building area, by use; dwelling units; and hotel rooms.
2. The application shall also identify the intensity to be transferred from the sending site to the receiving site.
3. The sending site shall retain sufficient a.m. and p.m. trips and ADT to achieve 0.125 floor area ratio (FAR) office equivalency on the site.
4. The City shall have the discretion to permit an applicant to transfer trips in excess of those which would result in the sending parcel being developed at less than a 0.125 FAR office equivalency. In such case, the applicant shall have the option of either (1) providing an irrevocable offer of dedication of the parcel to the City for public purposes or (2) demonstrating that a viable project exists which will reasonably function with less than 0.125 FAR of office equivalency. Such offer or demonstration shall occur prior to the issuance of building permits.

E. *Transfer of development rights fee.* A fee shall be charged for the transfer of development rights payable prior to the issuance of building permits for the receiving site.

1. *Fee rate.* Transfer of development rights fees shall be charged as established by resolution through the City Council.
2. *Fee calculation.*

   Trip Fee × Transferred P.M. Trips = Total TDR Fee

F. *Findings.* The following findings shall be made in order to approve a transfer of development rights development case (MP and/or CUP). These findings are in addition to the findings required in division 2 (chapter 2-9 and chapter 2-17) of this ordinance.

1. The project shall not adversely affect City infrastructure and services.
2. There is no adverse impact on the surrounding circulation system. The performance criteria as established in the 1992 IBC final program EIR is maintained as a result of no impact, or adequate mitigation.

G. *IBC database adjustments.* A site which transfers vehicle trips ("sending site") shall retain sufficient a.m. and p.m. trips and ADT to achieve 0.125 floor area ratio (FAR) office equivalency on the site, except as provided below:

1. The following requirements apply to all master plan and/or conditional use permit applications for transfers of development rights:
   a. Prior to submittal of applications for building permits for either the sending or receiving site, the applicant shall submit an instrument prepared to the satisfaction of the Director of Community Development and the City Attorney executing a transfer of development rights agreement between the two sites. The following information shall be included in the agreement:
      (1) The transferred a.m. and p.m. trips and ADT;

(2) The remaining a.m. and p.m. trips and ADT, including gross square feet of building area for each site.

b. Prior to issuance of building permits for either the sending or receiving site, the agreement between the sending and receiving site as described above shall be recorded in the office of the Orange County Recorder.

(Code 1976, § V.E-936.6.9; Ord. No. 92-3, 4-14-92; Ord. No. 92-20, § 6, 11-10-92; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-3, § 2, 4-26-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 95-4, 5-9-95; Ord. No. 95-6, § 3, 5-27-95; Ord. No. 95-22, § 3, 11-28-95; Ord. No. 01-07, § 2, 5-8-01; Ord. No. 09-02, § 3, 3-24-09)

Los Angeles Municipal Code Section 14.5.9

(c) A written appeal request specifying in detail the grounds for the appeal, and

(d) Other information the City Council reasonably requests.

3. The City Council shall act on the appeal within 75 calendar days after receipt of the appeal.

4. If the City Council finds for the Applicant on any matter in dispute, the City Council shall remand the matter to the Agency Board for further action consistent with the City Council's decision. The City Council may impose conditions on the remanded application as it deems necessary to accomplish the purposes and objectives of this article. Upon remand, the Agency Board shall complete its proceedings with respect to the proposed Transfer in a manner that is consistent with the City Council's action on the matter. If the Agency Board fails to approve the request within 60 calendar days after the City Council remanded the matter to it, the Applicant may submit the request directly to the City Council without Agency Board approval.

D. City Council Action After Approval by Agency Board. Within 60 calendar days after the Agency Board has acted to approve, approve with conditions or disapprove a Transfer pursuant to Subsection B. above, the City Council shall act by majority vote to approve, conditionally approve or disapprove the proposed Transfer for a Residential Development. The City Council shall not approve or conditionally approve a Transfer unless it finds that the Residential Development resulting from the Transfer will meet each of the standards set forth in Subsection B.2. of this section. If the City Council's action under this subsection is at variance from the Agency Board's actions pursuant to Subsection B. above, the request shall be returned to the Agency Board for further action in keeping with the City Council's determination under this subsection.

E. Mayor Action. When the City Council approves or conditionally approves a proposed Transfer for a Residential Development, the matter together with the files and reports shall forthwith be transmitted to the Mayor. The Mayor may approve or disapprove the proposed Transfer within 10 days of its presentation to him or her. This action shall be based solely upon the administrative record and whether the Mayor believes the proposed Transfer conforms with the requirements for approval set forth in this section. If the Mayor disapproves the proposed Transfer, he or she shall return the matter to the City Clerk for presentation to the City Council, together with the objections in writing. The City Council within 60 days after the matter has been returned to it may override the disapproval by a two-thirds vote.

If the City Council fails to override the Mayor's disapproval within the 60 days, the Mayor's disapproval shall constitute a denial of the proposed Transfer. If the Mayor fails to return the matter to the City Clerk within ten days of the presentation to him or her, the approval of the proposed Transfer shall become final.

F. No Subarea Limitations. Notwithstanding any limitations imposed on the Transfer between Subareas contained elsewhere in this article or in the Redevelopment Plan, there shall be no restrictions on Transfers between Subareas when the Project located on the Receiver Site is a Residential Development.

SEC. 14.5.8. DIRECTOR'S DETERMINATION.

If the Director of Planning determines that the Agency substantially changed the final Owner Participation Agreement or Disposition and Development Agreement for a Commercial or Industrial Project subsequent to City Council approval of a Transfer, the Director of Planning shall make a determination whether the Owner Participation Agreement or Disposition and Development Agreement is still consistent with the Transfer Plan. If the Director of Planning determines the changes are not consistent with the City Council's previous action, the Director of Planning shall report those findings in writing to the Commission for action by the Commission and City Council or the Transfer Plan shall be deemed null and void.

SEC. 14.5.9. GENERAL REQUIREMENTS.

A. The Agency shall establish an accounting of all Transfers and Public Benefit Payments in the Redevelopment Plan Areas. The accountings shall be transmitted annually to the Commission for its review and shall include the amount of floor area restricted on each Donor Site and added to each Receiver Site and the dollar amount and related calculation for each approved Transfer Plan.

1. The Agency shall maintain a record of the available Floor Area Rights for each block and Subarea within the Redevelopment Project Areas, any Transfers and other records as may be necessary or desirable to provide an up-to-date account of the Floor Area Rights available for use in any block and Subarea within the Redevelopment Project Areas. The records shall be available for public inspection.

2. The Agency shall maintain an accounting of all Public Benefit Payments derived from Transfers, and an accounting of all allocation of the Public Benefit Payments. The records shall be available for public inspection.

B. The Planning Department shall establish a procedure to coordinate the obtaining of timely responses from affected City departments and agencies on each Project involving a Transfer, as a part of the early consultation process, referenced above.

C. Any Transfer, approved pursuant to this article, shall be evidenced by a recorded document, signed by the owner of the Donor Site and the owner of the Receiver Site and in a form satisfactory to the City Attorney and designed to run with the land. This document shall clearly set forth the amount of Floor Area Rights transferred and restrict the allowable Floor Area remaining on the Donor Site.

SEC. 14.5.10. PUBLIC BENEFIT PAYMENT.

A. A Public Benefit Payment shall be provided as part of an approved Transfer Plan and shall serve a public purpose, such as: providing for affordable housing, public open space, historic preservation, recreational, cultural, community and public facilities, job training and outreach programs, affordable child care, streetscape improvements, public arts programs, homeless services programs, or public transportation improvements. Prior to approving a Transfer Plan, the Agency Board or the City Council shall make a finding that the Public Benefit Payment proposed by the Applicant in the Transfer Plan, or by the Agency Board or the City Council in its conditional approval, will result in Public Benefits with an economic value consistent with the sum of the Public Benefit Payment set forth in Subsection C. of this section.

B. A Public Benefit Payment may be provided by any combination of the payment of monies to the Transfer of Floor Area Rights Public Benefit Payment Trust Fund ("Public Benefit Payment Trust Fund") or by the direct provision of Public Benefits by the Applicant; provided, however, that without City Council approval, at least 50% of the Public Benefit Payment must consist of cash payment by the Applicant to the Public Benefit Payment Trust fund.

C. The Public Benefit Payment under any Transfer Plan shall equal: (1) the sale price of the Receiver Site, if it has been purchased through an unrelated third-party transaction within 18 months of the date of submission of the request for approval of the Transfer, or an Appraisal, if it has not; (2) divided by the Lot Area (prior to any dedications) of the Receiver Site; (3) further divided by the High-Density Floor Area Ratio Factor; (4) multiplied by 40%; and (5) further multiplied by the number of square feet of Floor Area Rights to be transferred to the Receiver Site.

[Example: If Receiver Site with a Lot Area of 100,000 square feet (before any dedications) was purchased for $40,000,000 (through an unrelated third-party transaction within 18 months of the date of submission of the request for approval of the Transfer), the Public Benefit Payment under a Transfer Plan transferring 100,000 square feet of Floor Area Rights would equal: (a) $40,000,000 (the purchase price); (b) divided by 100,000 (the Lot Area of the Receiver Site); (c) divided by 6 (the High-Density Floor Area Ratio Factor); (d) multiplied by 40%; and (e) multiplied by 100,000 (the number of square feet of Floor Area Rights to be transferred) = $2,666,666.67 (or $26.67 for each square foot of transferred Floor Area Rights).]

SEC. 14.5.11. TFAR TRANSFER PAYMENT.

A. If the Donor Site is owned by the Agency or the City, the TFAR Transfer Payment shall be the greater of (a) 10% of the Public Benefit Payment calculated pursuant to Section 14.5.10 C of this article, or (b) $5 multiplied by the number of square feet of Floor Area Rights to be transferred to the Receiver Site, and this TFAR Transfer Payment shall be paid in cash by the Applicant to the Public Benefit Payment Trust fund as set forth in Section 14.5.13 of this article.

B. If the Donor Site is owned by a party other than the Agency or the City, then the amount and payment of any TFAR Transfer Payment will be negotiated between the owner of the Donor Site and owner of the Receiver Site.

C. The Transfer Payment is independent of the Public Benefit Payment.

Model Transfer of Development Rights Ordinance

4.6 MODEL TRANSFER OF DEVELOPMENT RIGHTS (TDR) ORDINANCE

The model ordinance below establishes a general framework for severing development rights involving net density and intensity (through FARs) from a sending parcel and transferring them to a receiving parcel. Section 101 of the ordinance authorizes a transfer of development rights (TDR) for a variety of purposes, including environmental protection, open space preservation, and historic preservation, which are the most typical.

Under Section 104, the local government has two options in setting up the TDR program. The first involves the use of overlay districts, which would zone specific areas as sending and receiving parcels. The second involves identifying which zoning districts would be sending and receiving districts in the text of the ordinance itself, rather than through a separate amendment to the zoning ordinance. In both cases, the designations must be consistent with the comprehensive plan. Section 105 of the ordinance contains a table that shows, by use district, the permitted maximum increases in density and FAR that can be brought about through TDR.

Section 106 outlines a process by which the zoning administrator would determine the specific number of development rights for a sending parcel in terms of dwelling units per net acre or square feet of nonresidential floor area (for commercial and industrial parcels) and issue a certificate to the transferor. Sections 107 and 108 describe the instruments by which the development rights are legally severed from the sending parcel through instruments of transfer and attached to the receiving parcel. Section 107 describes how the applicant for a subdivision or other type of development permit would formally seek the use of development rights in a development project (e.g., a subdivision). Note that the transfer would not apply to rezonings, but only to specific projects where a development permit is going to be issued in order that development may commence.

Commentary to the ordinance describes, in Section 109, a development rights bank, a mechanism by which the local government purchases development rights before they are applied to receiving parcels, retains them permanently in order to prevent development, or sells them as appropriate in order to make a profit or direct development of a certain character to a specific area. Whether this is an appropriate role for local government or should be left to nonprofit organizations (e.g., land trusts) is matter for local discussion and debate. No ordinance language is provided, although the description in the commentary should be sufficient for local government officials to draft language establishing the bank.

Primary Smart Growth Principle Addressed: Preserve open space and farmland
Secondary Smart Growth Principle Addressed: Direct development towards existing communities

101. Purposes

The purposes of this ordinance are to:

(a) preserve open space, scenic views, critical and sensitive areas, and natural hazard areas;

(b) conserve agriculture and forestry uses of land;

(c) protect lands and structures of aesthetic, architectural, and historic significance;

(d) retain open areas in which healthful outdoor recreation can occur;

(e) implement the comprehensive plan;

(f) ensure that the owners of preserved, conserved, or protected land may make reasonable use of their property rights by transferring their right to develop to eligible zones;

(g) provide a mechanism whereby development rights may be reliably transferred; and

(h) ensure that development rights are transferred to properties in areas or districts that have adequate community facilities, including transportation, to accommodate additional development.

Comment: *The local government may tailor this list of purposes to its particular planning goals and objectives or leave it with a wide range of purposes and implement the ordinance to achieve specific goals and objectives.*

102. Authority

This ordinance is enacted pursuant to the authority granted by [*cite to state statute or local government charter or similar law*].

Comment: *It is important to determine whether the local government has legal authority to enact a TDR program because not all local governments in all states have identical powers. In addition, enabling legislation for TDR may require that the transfers be done in a certain manner other than is described in this model.*

103. Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

"Development Rights" mean the rights of the owner of a parcel of land, under land development regulations, to configure that parcel and the structures thereon to a particular density for residential uses or floor area ratio for nonresidential uses. Development rights exclude the rights to the area of or height of a sign.

Comment: *Unless sign area and height are excluded from the definition of "development rights," it is possible to transfer them to another parcel, resulting in larger or taller signs. In*

some cases, development rights might extend to impervious surface coverage, and a transfer of such rights would allow more extensive lot coverage.

"Density" or **"Net Density"** means the result of multiplying the net area in acres times 43,560 square feet per acre and then dividing the product by the required minimum number of square feet per dwelling unit required by the zoning ordinance for a specific use district.

"Density" or "Net Density" is expressed as dwelling units per acre or per net acre

"Floor Area" means the gross horizontal area of a floor of a building or structure measured from the exterior walls or from the centerline of party walls. "Floor Area" includes the floor area of accessory buildings and structures.

"Floor Area Ratio" means the maximum amount of floor area on a lot or parcel expressed as a proportion of the net area of the lot or parcel.

"Net Area" means the total area of a site for residential or nonresidential development, excluding street rights-of-way and other publicly dedicated improvements, such as parks, open space, and stormwater detention and retention facilities, and easements, covenants, or deed restrictions, that prohibit the construction of building on any part of the site. "Net area" is expressed in either acres or square feet.

[**"Overlay District"** means a district superimposed over one or more zoning districts or parts of districts that imposes additional requirements to those applicable for the underlying zone.]

Comment: *This definition is only necessary if the TDR designation is accomplished via an overlay district.*

"Receiving District" means one or more districts in which the development rights of parcels in the sending district may be used.

"Receiving Parcel" means a parcel of land in the receiving district that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights, directly or by intermediate transfers, from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights;

"Sending District" means one or more districts in which the development rights of parcels in the district may be designated for use in one or more receiving districts;

"Sending Parcel" means a parcel of land in the sending district that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights; and

"Transfer of Development Rights" means the procedure prescribed by this ordinance whereby the owner of a parcel in the sending district may convey development rights to the

owner of a parcel in the receiving district or other person or entity, whereby the development rights so conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel or may be held by the receiving person or entity.

Comment: *This definition recognizes that development rights may be sold to an entity (e.g., the local government or a nonprofit organization) that will hold them indefinitely.*

"Transferee" means the person or legal entity, including a person or legal entity that owns property in a receiving district, who purchases the development rights.

"Transferor" means the landowner of a parcel in a sending district.

104. Establishment of Sending and Receiving Districts.

[Alternative 1: Amend the zoning map using overlays]

(1) The [local legislative body] may establish sending and receiving districts as overlays to the zoning district map by ordinance in the manner of zoning district amendments. The [planning director] shall cause the official zoning district map to be amended by overlay districts to the affected properties. The designation "TDR-S" shall be the title of the overlay for a sending district, and the designation "TDR-R" shall be the title of the overlay for a receiving district.

Comment: *When a zoning map is amended, one practice is to list the ordinance number and the enactment date in a box on the map, along with the signatures of the planning director and the clerk of the local legislative body (e.g., the clerk of council). This allows for an easy reference if there should be any later questions about whether the map amendment accurately reflects the legal description in the ordinance.*

(2) Sending and receiving districts established pursuant to Paragraph (1) shall be consistent with the local comprehensive plan.

[Alternative 2—Specify zoning districts that can serve as sending and receiving districts]

(1) The following zoning districts shall be sending districts for the purposes of the transfer of development rights program:

[list names of districts]

(2) The following zoning districts shall be receiving districts for the purposes of the transfer of development rights program:

[list names of districts]

Comment: *Since the sending and receiving districts are being established as part of the ordinance rather than through separate overlays, the local government would need to make a declaration of consistency with the comprehensive plan for such districts as part of the enactment of these two paragraphs.*

105. Right to Transfer Development Rights

(1) Each transferor shall have the right to sever all or a portion of the rights to develop from the parcel in a sending district and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the purposes of Section 101 above .

(2) The transferee may retire the rights, resell them, or apply them to property in a receiving district in order to obtain approval for development at a density or intensity of use greater than would otherwise be allowed on the land, up to the maximum density or intensity indicated in Table 1.

Table 1
Maximum Density and Intensity Allowed in Zoning Districts through Transfer of Development Rights (TDR)

Note: District names, densities, and intensities are hypothetical examples only.

Zoning District Title	Maximum Density in Dwelling Units Per Net Acre	Maximum Intensity in Floor Area Ratio	Maximum Density with TDR	Maximum Intensity in Floor Area Ratio with TDR
R-1	4		8	
R-2	8		16	
R-3	16		32	
C-1		0.2		0.4
C-2		1.0		2.0
C-3		2.0		4.0
C-4		4.0		8.0
I-1		0.75		1.5

(3) Any transfer of development rights pursuant to this ordinance authorizes only an increase in maximum density or maximum floor area ratio and shall not alter or waive the development standards of the receiving district, including standards for floodplains, wetlands, and [*other environmentally sensitive areas*]. Nor shall it allow a use otherwise prohibited in a receiving district.

Comment: *In some cases, it may be desirable to allow the transfer of the right to additional impervious surface coverage on a site. For example, if a certain zoning district limits the amount of surface parking by a maximum impervious surface parking ratio and additional parking is needed, Table 1 should be amended to authorize this.*

106. Determination of Development Rights; Issuance of Certificate

(1) The [zoning administrator] shall be responsible for:

(a) determining, upon application by a transferor, the development rights that may be transferred from a property in a sending district to a property in a receiving district and issuing a transfer of development rights certificate upon application by the transferor.

(b) maintaining permanent records of all certificates issued, deed restrictions and covenants recorded, and development rights retired or otherwise extinguished, and transferred to specific properties; and

(c) making available forms on which to apply for a transfer of development rights certificate.

(2) An application for a transfer of development rights certificate shall contain:

(a) a certificate of title for the sending parcel prepared by an attorney licensed to practice law in the state of [*name of state*];

(b) [five] copies of a plat of the proposed sending parcel and a legal description of the sending parcel prepared by [licensed *or* registered] land surveyor;

(c) a statement of the type and number of development rights in terms of density or FAR being transferred from the sending parcel, and calculations showing their determination.

(d) applicable fees; and

(e) such additional information required by the [zoning administrator] as necessary to determine the number of development rights that qualify for transfer

Comment: *A local government should consult with its law director or other legal counsel to determine the requirements for an application for a TDR. Consequently, this paragraph as well as other Sections of the ordinance may need to be revised to reflect state-specific issues concerning real property law and local conditions.*

(3) A transfer of development rights certificate shall identify:

(a) the transferor;

(b) the transferee, if known;

(c) a legal description of the sending parcel on which the calculation of development rights is based;

(d) a statement of the number of development rights in either dwelling units per net acre or square feet of nonresidential floor area eligible for transfer;

(e) if only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights in either dwelling units per net acre or square feet of nonresidential floor space remaining on the sending property;

(f) the date of issuance;

(g) the signature of the [zoning administrator]; and

(h) a serial number assigned by the [zoning administrator].

(4) No transfer of development rights under this ordinance shall be recognized by the [local government] as valid unless the instrument of original transfer contains the [zoning administrator's] certification.

107. Instruments of Transfer

(1) An instrument of transfer shall conform to the requirements of this Section. An instrument of transfer, other than an instrument of original transfer, need not contain a legal description or plat of the sending parcel.

(2) Any instrument of transfer shall contain:

(a) the names of the transferor and the transferee;

(b) a certificate of title for the rights to be transferred prepared by an attorney licensed to practice law in the state of [name of state];

(c) a covenant the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors, and assigns a specific number of development rights from the sending parcel to the receiving parcel;

(d) a covenant by which the transferor acknowledges that he has no further use or right of use with respect to the development rights being transferred; and

(e) [*any other relevant information or covenants*].

(3) An instrument of original transfer is required when a development right is initially separated from a sending parcel. It shall contain the information set forth in paragraph (2) above and the following information:

(a) a legal description and plat of the sending parcel prepared by a licensed surveyor named in the instrument;

(b) the transfer of development rights certificate described in Section 106 (4) above.

(c) a covenant indicating the number of development rights remaining on the sending parcel and stating the sending parcel may not be subdivided or developed to a greater density or intensity than permitted by the remaining development rights;

(d) a covenant that all provisions of the instrument of original transfer shall run with and bind the sending parcel and may be enforced by the [*local government*] and [*list other parties, such as nonprofit conservation* organizations]; and

(d) [*indicate topics of other covenants, as appropriate*].

(4) If the instrument is not an instrument of original transfer, it shall include information set forth in paragraph (2) above and the following information :

(a) a statement that the transfer is an intermediate transfer of rights derived from a sending parcel described in an instrument of original transfer identified by its date, names of the original transferor and transferee, and the book and the page where it is recorded in the [land records of the county].

(b) copies and a listing of all previous intermediate instruments of transfer identified by its date, names of the original transferor and transferee, and the book and the page where it is recorded in the [land records of the county].

(5) The local government's [law director] shall review and approve as to the form and legal sufficiency of the following instruments in order to affect a transfer of development rights to a receiving parcel:

(a) An instrument of original transfer

(b) An instrument of transfer to the owner of the receiving parcel

(c) Instrument(s) of transfer between any intervening transferees

Upon such approval, the [law director] shall notify the transferor or his or her agent, who shall record the instruments with the [name of county official responsible for deeds and land records] and shall provide a copy to the [*county assessor*]. Such instruments shall be recorded prior to release of development permits, including building permits, for the receiving parcel.

Comment: *The procedures in paragraph (5) may need to be modified based on the structure of local government in a particular state and the responsibilities of governmental officials for land records and assessments. The important point is that the TDRs must be permanently recorded, and the property of the owner of the sending parcel, the value of which is reduced because of the transfer, should be assessed only on the basis of its remaining value.*

108. Application of Development Rights to a Receiving Parcel

(1) A person who wants to use development rights on a property in a receiving district up to the maximums specified in Table 1 in Section 105 above shall submit an application for the use of such rights on a receiving parcel. The application shall be part of an application for a development permit. In addition to any other information required for the development permit, the application shall be accompanied by:

(a) an affidavit of intent to transfer development rights to the property; and

(b) either of the following:

1. a certified copy of a recorded instrument of the original transfer of the development rights proposed to be used and any intermediate instruments of transfer through which the applicant became a transferee of those rights; or

2. a signed written agreement between the applicant and a proposed original transferor, which contains information required by Section 106(2) above and in which the proposed transferor agrees to execute an instrument of such rights on the proposed receiving parcel when the use of those rights, as determined by the issuance of a development permit, is finally approved.

(2) The [local government] may grant preliminary subdivision approval of a proposed development incorporating additional development rights upon proof of ownership of development rights and covenants on the sending parcel being presented to the [local government] as a condition precedent to final subdivision approval.

(3) No final plat of subdivision, including minor subdivisions, shall be approved and no development permits shall be issued for development involving the use of development rights unless the applicant has demonstrated that:

(a) the applicant will be the bona fide owner of all transferred development rights that will be used for the construction of additional dwellings, the creation of additional lots, or the creation of additional nonresidential floor area;

(b) a deed of transfer for each transferred development right has been recorded in the chain of title of the sending parcel and such instrument restricts the use of the parcel in accordance with this ordinance; and

(c) the development rights proposed for the subdivision or development have not been previously used. The applicant shall submit proof in the form of a current title search prepared by an attorney licensed to practice law in the state of [name of state].

109. Development Rights Bank [*optional*]

Comment: *This section should establish a development rights bank, otherwise referred to as a "TDR Bank." The local government or any other existing or designated entity may operate the bank. The TDR Bank should:*

- *have the power to purchase and sell or convey development rights, subject to the local legislative body's approval;*
- *have the power to recommend to the local legislative body property where the local government should acquire development rights by condemnation;*
- *have the power, to hold indefinitely any development rights it possesses for conservation or other purposes;*
- *receive donations of development rights from any person or entity; and*
- *receive funding from the local government, the proceeds from the sale of development rights, or grants or donations from any source.*

No model ordinance language for the creation of the TDR bank is provided here because the specifics of such must be determined by the operating entity.

References

Fruita, Colorado, City of. Land Use Code, Chapter 17.09, Transfer of Development Rights/Credits [accessed December 14, 2004]: www.fruita.org/pdf/LUC_4_2004/Chapter17_comp.pdf

Howard County, Maryland. Zoning Ordinance, Section 106, Density Exchange Option Overlay District [accessed December 14, 2004]: http://www.co.ho.md.us/DPZ/DPZDocs/ClusterDEO070104.pdf

Redmond, Washington, City of. Community Development Guide, Section 20D.200, Transfer of Development Rights/Purchase of Development Rights Program [accessed December 14, 2004]: http://search.mrsc.org/nxt/gateway.dll/rdcdg?f=templates&fn=rdcdgpage.htm$vid=municodes:RedmondCDG

Sarasota County, Florida. Zoning Code, Section 4.11, TDR Overlay District Intent Statements and Section 6.12, TDR Overlay District Development Standards, website [accessed December 14, 2004]: http://www.scgov.net/Frame/ScgWebPresence.aspx?AAA498=AFC1BAAFC0A89CB7B9BBBAA7C0A4B273C8B5B3B5C86FBBAAC981B0ABB8A2C2B1C980ADB9C2B9

St. Mary's County, Maryland. Zoning Ordinance, Chapter 26, Transferable Development Rights [accessed December 14, 2004 http://www.co.saint-marys.md.us/planzone/docs/TDRammendment.pdf

Correspondence
Item No. 2b
Newport Beach Country Club
PA2005-140 and PA2008-152

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July 29, 2011

Kimberly Brandt, Community Development Director
City of Newport Beach
3300 Newport Boulevard
Newport Beach,CA92663

Re: Newport Beach Country Club ("NBCC property")
Former Balboa Bay Club Racquet Club ("BBCRC property")

Dear Ms. Brandt:

The purpose of this letter is to advise you of our concerns, as owners of the above-referenced properties, in connection with the scheduled August 4, 2011 Planning Commission hearing set to address the Golf Realty Plans for these properties and to address the competing plans of the International Bay Club ("IBC") for the NBCC property.

We, the undersigned, represent 50% of the owners of the above referenced properties, who are the Fainbarg Family Trust ("FFT"), which owns twenty-five (25%) percent of each of the properties and is managed by Irving M. Chase , and the Mira Mesa Shopping Center-West and the Mesa Shopping Center-East ("Mira Mesa"), which also own twenty-five (25%) percent of each property and are managed by Elliot Feuerstein. The other owner is Golf Realty Fund ("Golf Realty"), represented by Robert O Hill. All owners hold their interests as tenant in common, and as tenants in common we have never given Mr. O Hill the right to pursue plans he has presently formulated. We have advised you of this on June 20, 2011, and we have also advised your counsel, Michael Torres, of this through our counsel on July 14, 2011. In fact, we believe that Mr. O Hill has submitted plans in violation of the City requirements that an Owner Affidavit be filled out and signed by all owners. If you will look at your files, you will see that (1) we never signed any such Owner Affidavit, (2) we were never listed on any such affidavit as an owner, and (3) we were never copied on any of the numerous transmittals Mr. O Hill sent to the City in favor of the Golf Realty plans and opposing the plans of our long-term tenant, IBC.

We oppose the Golf Realty plans, and we favor the IBC plans. Moving first to the plans for the tennis property, as we explained long ago to Mr. O Hill, we believe the Golf Realty plans for tennis

club property should revised to be primarily residential in character. This is in keeping with surrounding use, and we understand there are 20 residential units still available in the Newport Center to support this use. We believe that the plans for a 27 unit hotel bungalow, and an upgrade of the tennis club with an expensive spa, a new club house, a stadium tennis court, and a new swimming pool, are highly uneconomic and unfeasible. We have no confidence that a tenant for either the hotel or the tennis club could be found who would pay rents to in any way justify the cost of these improvements (which O Hill estimated in 2007 would exceed $5,000,000). Despite our requests, Mr. O Hill has never presented us with a proposed lease from any tenant to justify these improvements, and IBC refused to support this project explaining in a letter it copied to the City on September 18, 2008 that it did not view the tennis club business as a growth industry and was not prepared to continue to operate the tennis club under O Hill's plans. Mr. O Hill by express agreement has no right to spend any money on improvements to the properties, and we will not be agreeing to make the improvements he seeks through his plans. Further, we understand that HHR Newport Beach, LLC may own the 27 hotel units which Golf Realty intends to use for this plan, and has not consented to the taking of its units. Proceeding any further with Golf Realty's plans thwarts the intentions of 50% of the owners of this property, would never result in any plans proceeding to build out, and would be pointless.

Moving to the competing plans for the NBCC property, we, both as owners of 50% of the property and as 50% of the signing landlords under IBC's lease, fully support IBC's plans and oppose Golf Realty's competing plans for the golf course property. The reasons are many. First, IBC has a lease on this property until December 31, 2067. The property owners have no right to build anything on the property for another 56 years. Under sections 5.01and 5.10 of the lease, IBC has the right to submit plan for improvement, and the right to make those improvements it wishes, with the landlord parties having only the right to approve the plans, which will not be unreasonably withheld. IBC is the proper party to be submitting this application, not Golf Realty.

IBC's plans are, in our opinion, consistent with the historical and the intended use for this property, and will be a vast improvement to both the function and the aesthetics of the property. We have reviewed the Response to Public Comments concerning IBC's plans, and are satisfied that any comments made by Golf Realty or its friends have been properly addressed. In many instances, IBC has made changes to its plans to ameliorate any proper concerns, such as by removing its upper parking area, moving the proposed clubhouse closer to the golf course, and reducing retaining wall heights. The proposed landscaping will improve aethetics dramatically over current conditions, as will the new prairie style clubhouse. We have no problem with the proposed size of the clubhouse, and are pleased that IBC wants to make this course truly world class. IBC's plans should be moving forward without delay or further interference by O Hill and Golf Realty Fund.

We oppose Golf Realty Fund's plans for the NBCC property because it had no business, in our opinion, in even submitting such plans, and its plans will not be built either by IBC or by the owners. IBC cannot be expected to build plans it does not want, and we would never approve spending funds for implementing these plans either. O Hill and Golf Realty have no right to proceed unilaterally. We also object to the Golf Realty Plans as they eliminate a road that has long served the Armstrong Nursery. IBC's plans keep this road in place, with the addition of a great amount of additional plantings to improve everyone's view. We oppose the Golf Realty plans as they dramatically reduce

the size of the new clubhouse IBC says that it needs. We trust IBC knows what it needs in this regard, and would not be proposing to build and pay for a larger clubhouse unless it had carefully thought this through. We expect all landholders to benefit from this improvement.

In closing, we request that the City suspend all processing of the PC Text entitlements for NBCC and BBCRC filed by O Hill until such time that the current litigation between O Hill, FFT and Mira Mesa is adjudicated or otherwise settled by the tenant-in-common ownership entities, and until all the property owners of the NBCC and BBCRC submit an application for entitlement, as the City regulations require. We believe that any O Hill secured development entitlements will cause great harm to FFT and Mira Mesa and do not wish for the land to be burdened with development entitlements that they have not approved.

FAINBARG FAMILY TRUST
dated April 19, 1982

By:_____
Irving M. Chase, as representative of the Trustee of
The Fainbarg Family
Trust, dated April 19, 1982

MESA SHOPPING CENTER-EAST,
a California General Partnership

By:_____
Elliot Feuerstein
Managing General Partner

MIRA MESA SHOPPING CENTER-WEST,
a California General Partnership

By:_____
Elliot Feuerstein
Managing General Partner

cc David Hunt, Esq. (City of Newport Beach)
Michael Torres, Esq. (City of Newport Beach)
Patrick Alford (City of Newport Beach)
Rosalinh Ung (City of Newport Beach)

Correspondence
Item No. 2c
Newport Beach Country Club
PA2005-140

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August 4, 2011

Newport Beach Planning Commissioners
Newport Beach Planning Commission
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

Re: Proposed Transfer of Development Rights from Newport Beach Marriott Hotel (Anomaly 43) to Newport Beach Country Club (Anomaly 46); Project File No. PA2005-140

Dear Commissioners:

We represent HHR Newport Beach LLC ("Host"), which owns the Newport Beach Marriott Hotel at 900 Newport Center Drive. The hotel site is designated as Anomaly 43 in the City of Newport Beach's ("City") General Plan. On July 22, 2011, we submitted a letter opposing Golf Realty Fund's proposal to transfer development rights for 27 hotel units from Anomaly 43 to the Newport Beach Country Club site (Anomaly 46). The staff report for Golf Realty Fund's proposed project does not address our earlier letter.

This letter emphasizes two key points:

- The development intensity for the hotel units that Golf Realty Fund proposes to transfer is very valuable—both for sale to other landowners and for potential development at the Marriott.

- Golf Realty Fund's proposed project may have significant environmental impacts and needs to be studied in an environmental impact report to comply with the California Environment Quality Act ("CEQA").

I. HOST'S DEVELOPMENT RIGHTS ARE VALUABLE PROPERTY

The development rights Golf Realty Fund is trying to take from Host are valuable property rights. As described in the enclosed affidavit of Gerard Haberman, the current market value for the development rights for *each hotel room* is in excess of $150,000 if the rights were transferred to another property owner. The value of the right to build 27 hotel units that Golf Realty Fund is trying to take is over $4 million, perhaps materially. In addition, the development

rights are valuable to Host for potential future development. Newport Center and Fashion Island is an extremely desirable location, and the applicable height limits would allow Host to build an additional hotel tower on its property.

Granting Golf Realty Fund's proposed transfer of Host's valuable development rights would constitute a taking of Host's property, requiring the payment of compensation to Host.[1]

II. GOLF REALTY FUND'S PROPOSED PROJECT MUST COMPLY WITH CEQA AND BE SUBJECT TO AN ENVIRONMENTAL IMPACT REPORT

CEQA requires an environmental impact report to be prepared for any project that may have a significant environment impact. The standard of review for a mitigated negative declaration is very strict:[2]

> If there is substantial evidence in the whole record supporting a fair argument that a project may have a significant nonmitigable effect on the environment, the lead agency shall prepare an [environmental impact report], even though it may also be presented with other substantial evidence that the project will not have a significant effect.

If there is *any* substantial evidence that a project *may* have a significant impact, the City must prepare an environmental impact report.

Golf Realty Fund's project may have significant impacts, and must be analyzed in an environmental impact report. Indeed, the City's own consultant acknowledged in the project's technical report for air quality that "construction activity dust emissions are considered to have a cumulatively significant impact."

Because the South Coast Air Basin is non-attainment for PM10, the air quality study makes clear that a project has a significant cumulative impact even if its PM10 emissions fall below South Coast Air Quality Management District's emission thresholds. Therefore, the project has a significant cumulative impact on PM10. Any additional PM10 emissions will make already unacceptable PM10 levels worse. This is true even if mitigation reduces the PM10 emissions from the project. It is not clear why the mitigated negative declaration does not adopt the same conclusion as the air quality study on the significance of PM10 emissions. It may be that it is making a "de minimis" finding, which is unacceptable under CEQA.[3] The air quality study's conclusion that the project has significant cumulative impacts related to PM10 is substantial evidence supporting a fair argument that the project may have significant impacts. Therefore, the City must prepare an environmental impact report for the project.

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1 *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761, 775.

2 *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.

3 *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 117 (de minimis findings for cumulative impacts are prohibited).

We have enclosed an expert report by KLR Planning describing other significant impacts that the project may have, including impacts related to aesthetics, biological resources, greenhouse gas emissions, land use compatibility, noise, recreational facilities, and traffic. The City must prepare an environmental impact report to analyze these potential impacts.

* * *

Please do not hesitate to contact me at (714) 755-8168 to discuss these comments.

Very truly yours,

Paul N. Singarella
of LATHAM & WATKINS LLP

Enclosures

AFFIDAVIT OF GERARD E. HABERMAN

In Objection to the Proposed Transfer of Development Rights from the City of Newport Beach General Plan Anomaly 43 to Anomaly 46 as part of the Newport Beach Country Club (Golf Realty Fund) Application, City of Newport Beach Project File No. PA2005-140 August 4, 2011 Planning Commission Meeting

I, Gerard E. Haberman, do hereby declare under penalty of perjury as follows:

1. I am employed by Host Hotels & Resorts, L.P., which is the sole owner of HHR Newport Beach LLC ("HHR"), as the Senior Vice President, Development, Design and Construction. My responsibilities include the negotiation of the sale of certain excess land and development rights owned by HHR at the Newport Beach Marriott Hotel, which is located at 900 Newport Center Drive. I have been in my current position since October 2008. I have more than 20 years of experience in the real estate development business and have worked in a variety of roles on a variety of projects across the United States. I have performed feasibility and financial analysis, secured entitlements, managed design and construction, negotiated transactions and managed joint ventures. I have experience working in the development of master planned communities, residential communities, golf courses, and vacation ownership resort properties.

2. As such, I have first-hand knowledge of all matters referred to herein, except where stated on information and belief, and, if called upon to do so, could and would testify truthfully thereto.

3. HHR owns the Newport Beach Marriott, which is designated as anomaly 43 in the Newport Beach General Plan. The Newport Beach General Plan and Zoning Code allow the hotel site to be developed with up to 611 hotel rooms. The Newport Beach Marriott is currently developed with 532 hotel rooms, and therefore HHR has an entitlement to build an additional 79 hotel rooms on the site, or to transfer the right to build 79 units to another landowner in accordance with the City of Newport Beach's Municipal Code.

4. HHR has received notice of the August 4, 2011 Planning Commission public hearing to consider the approval of an application filed by Golf Realty Fund to transfer development rights for 27 hotel rooms from our property to anomaly 46 in the Newport Beach General Plan, the Newport Beach Country Club property. This proposed transfer would facilitate the development of 27 hotel units on the Newport Beach Country Club property.

5. To date, Golf Realty Fund has not approached HHR to discuss the proposed transfer of development rights. HHR had no knowledge of this proposed transfer prior to receiving the Planning Commission notice. HHR has not been asked to consent to the transfer of its development rights, and HHR does not consent to the transfer of its development rights.

6. HHR's rights to transfer the entitlement to another landowner are very valuable. During May 2011, I spoke with other developers in the City of Newport Beach that own properties that could receive our rights to build an additional 79 hotel rooms. Through conversations and correspondence, I learned that the market price is in excess of $150,000 for the development rights for *each* hotel room. Based on my knowledge of the Newport Beach

market, my experience in the industry, and conversations with brokers and developers, I believe this is a floor on the value of the development rights, and they could sell for a greater amount even in the current conditions. The real estate development market is currently significantly depressed, and with a modest recovery, I expect that the value of these development rights would be significantly higher.

7. Based on the current, depressed real estate market and the expression of interest HHR has received for the development rights without actively marketing them, the value of the development rights for the 27 units that Golf Realty Fund seeks to transfer to its property is at least $4,050,000. Using the same conservative assumptions, the current value for all 79 hotel rooms is at least $11,850,000. If the units were sold together or if the development rights were actively marketed, I believe the current value could be more, potentially significantly more. I believe that the current value of the development rights is significantly depressed below what the market value may be in the near future as the economy recovers from the current recession.

8. Furthermore, HHR's rights to build an additional 79 hotel rooms on its own Newport Beach Marriott Hotel site are very valuable. A 300 foot high rise height limit applies to the Newport Beach Marriott Hotel site. I understand that very limited areas of the City of Newport Beach may be developed to that height. Even within Newport Center, only a few properties may be developed to 300 feet. HHR's development rights, combined with this high rise potential, would allow the Newport Beach Marriott Hotel site to be developed with an additional hotel tower, or perhaps a residential tower, featuring ocean and golf course views in the extremely desirable location of Newport Center/Fashion Island. I believe that the long-term potential value of these development rights for HHR's own use is significant.

9. In spite of the high value of this asset owned by HHR, Golf Realty Fund appears to seek transfer of the development rights with no consent by HHR and no compensation to HHR.

10. HHR opposes Golf Realty Fund's proposed transfer of HHR's valuable asset to Golf Realty Fund's property designated as anomaly 46 in the Newport Beach General Plan, or to any other property without the express consent of HHR. HHR has not consented to any transfer of its development rights.

11. It is evident that the rights are valuable, with a minimum value of over $150,000 per unit. But further research into the market, a formal appraisal, or active marketing could show them to be significantly more valuable. We ask that the Planning Commission reject Golf Realty Fund's proposed transfer of HHR's valuable development rights without HHR's consent.

I declare under penalty of perjury under the laws of California and the United States that the foregoing is true and correct.

Executed on this 30th day of August, 2011, at Bethesda, Maryland.

By 
GERARD E. HABERMAN

BACKGROUND AND UNDERSTANDING

Golf Realty Fund is proposing redevelopment of the 145-acre Newport Beach Country Club, located at 1600 – 1602 East Coast Highway, Newport Beach, California. According to the Initial Study, the project site is developed with golf and tennis facilities. The golf club portion of the site includes an 18-hole golf course; a two-story, 23,460 square foot clubhouse; and an additional 9,010 square feet in ancillary uses, including cart barn, snack bar, restrooms, greens keeper shop, and starter shack. Parking is provided for 420 cars in the adjacent parking lot. The tennis club portion of the site includes 24 tennis courts and a 3,725 square foot clubhouse. Parking for the tennis club is provided in a 125-car parking lot.

The proposed project would modify these uses by demolishing the existing golf clubhouse and the existing tennis clubhouse and eliminating 17 of the 24 tennis courts. Six of the existing tennis courts would remain, and a new stadium center court would be added, for a total of seven tennis courts. Thirty-eight parking spaces would be provided for the tennis club. The existing tennis clubhouse and golf clubhouse would be replaced with the construction of a larger golf club house (35,000 square feet in size) and a new tennis clubhouse of the same size as the existing tennis clubhouse (3,725 square feet). The project also introduces new uses on the project site, including 27 short -term vacation rentals (the Bungalows), five single-family residences (the Villas), a spa/fitness center/pool, and banquet and event space.

The City of Newport Beach has conducted environmental review for the project under the California Environmental Quality Act (CEQA). An Initial Study (IS) has been prepared for the project, and the City intends to adopt a Mitigated Negative Declaration (MND). The purpose of this review of the IS/MND and associated technical studies and documents is to determine the adequacy and completeness of the IS/MND, based on the requirements of CEQA.

In preparation of this report, the following documents have been reviewed:

1. Notice of Intent to Adopt a Negative Declaration, City of Newport Beach; 9/16/2010
2. City of Newport Beach Environmental Checklist Form for Newport Beach Country Club Planned Community (PA2005-140); 9/16/10
3. Draft Newport Beach Country Club Planned Community District Plan; May 5, 2011
4. Air Quality Analysis, Newport Beach Country Club Project, City of Newport Beach, California; Giroux & Associates; July 23, 2009
5. Preliminary Hydrology Report for Vesting Tentative Track Map 15347, Newport Beach, CA; Adams-Streeter Civil Engineers Inc.; July 13, 2009
6. Traffic and Parking Evaluation for Newport Beach Country Club Clubhouse / Tennis Improvement Project in the City of Newport Beach; Kimley-Horn and Associates, Inc.; August 2009
7. Noise Analysis, Newport Beach Country Club Project, City of Newport Beach, California; Giroux & Associates; July 23, 2009
8. Newport Beach Country Club Parking Supply Analysis; LSA Associates Inc.; August 20, 2008
9. NPDES Technical Study for Newport Beach Country Club Planned Community District Plan; Adams-Streeter Civil Engineers, Inc.; January 14, 2009
10. Phase I Environmental Suite Assessment, Newport Beach Country Club Planned Community; Partner Engineering and Science, Inc.; April 3, 2009
11. Geotechnical Report for Newport Beach Country Club; GMU Geotechnical, Inc.; May 2, 2008

12. Memorandum: Revised Preliminary Geotechnical Design Parameters for the NBCC Planned Community, Newport Beach Country Club, Newport Beach, California; GMU Geotechnical, Inc., April 25, 2008
13. City of Newport Beach General Plan; July 25, 2006
14. City of Newport Beach Local Coastal Program Coastal Land Use Plan; February 5, 2009
15. City of Newport Beach Zoning Code, Title 20
16. City of Newport Beach Policy K-3, Implementation Procedures for the California Environmental Quality Act
17. City of Newport Beach Planning Commission Staff Report, August 4, 2011, Agenda Item 2: Newport Beach Country Club (PA2005-140)
18. City of Newport Beach Planning Commission Staff Report, August 4, 2011, Agenda Item 3: Newport Beach Country Club (PA2008-152)

Additionally, a visit to the project site was conducted on July 22, 2011.

GENERAL COMMENTS

The analysis in the IS is flawed in several aspects. The City should require that an Environmental Impact Report (EIR) be prepared to adequately evaluate the full range of project impacts, correctly analyze cumulative effects, and evaluate project alternatives. The general areas of concern are summarized below and then elaborated on in other sections of this letter report.

1. INCONSISTENCIES/INACCURACIES IN THE PROJECT DESCRIPTION
   The Project Description is not consistent throughout the IS and the technical studies. Without a consistent project description, the validity of the analysis is questionable. For example:

   - On page 2 of the IS, the project description associates the spa/fitness center with the Bungalows, implying that the spa/fitness center is ancillary to the vacation home units. Page 7 of the Traffic and Parking Evaluation report (Kimley-Horn and Associates, Inc., August 2009) identifies a spa associated with the tennis club. The Parking Analysis (LSA Associates, Inc., August 20, 2008) states that the fitness center would be available for use by members and guests of the Bungalows and tennis club members.

   - The discussion of Proposed Improvements on page 2 of the IS Project Description includes "*concierge and guest meeting facilities*". The Parking Analysis identifies a 3,034 square foot dining room and 2,567 square feet of banquet space to be located at the golf clubhouse. These facilities would serve residents of the Villas, the Bungalows, and members of the tennis club. The facilities would also be available for "*private events sponsored by a golf member.*" As such, the banquet/event space is a separate use on the site, and it is unclear whether this use is the same as the "*concierge and guest meeting facilities.*"

   - The NPDES Technical Study references "*golf clinics*" and "*a venue for association meeting and/or educational retreats.*" These uses are not addressed in the IS Project Description and, therefore, are not adequately evaluated in the analysis of environmental effect.

   - Page 80 of the IS includes a reference that the project requires an amendment to the Land Use Element of the General Plan. However, the plan amendment is not described in the Project Description of the IS.

   The details of these project features are essential in evaluating project impacts, particularly those related to traffic, parking, and air quality.

2. PROJECT SPLITTING

Golf Realty Fund and International Bay Clubs are each proposing projects for the Newport Beach County Club site. Though there are some potential conflicts between the proposed projects, both projects could be built with minor adjustments. The MND has failed to study the combined environmental effects of building both projects. The result is that the public is not informed about the true environmental impacts of the Newport Beach Country Club project and the MND understates the impact of the overall project.

Notably, the staff report supports the City issuing approvals that would allow both Golf Realty Fund's and International Bay Clubs' proposed projects to be built. According to the staff reports, staff recommends a project that is larger than either Golf Realty Fund's or International Bay Clubs' proposed projects—and that is larger than was studied in the MND. Considering both the Golf Realty project and the International Bay Clubs' project, the result would be the construction of the following elements:

- 56,000 square foot golf clubhouse;
- 7 tennis courts;
- 3,725 square foot tennis clubhouse;
- 5 villas (single-family residences);
- 27 bungalows (hotel units).

Obviously, such a project has not been studied in the MND and cannot be approved under the existing MND. Even if this were not staff's preferred alternative, the overall project (combining Golf Realty Fund's and International Bay Clubs' proposals) needs to be studied together in a single EIR so that the project's true impacts are clearly disclosed to the public and not understated.

Furthermore, staff's very recommendation is to "*consider the applicant's request and potential alternatives.*" An EIR is required to evaluate project alternatives. Therefore, the MND cannot be adopted for the project, and an EIR must be prepared that evaluates project alternatives such that the decision maker has the appropriate environmental document on which to base its discussion and decisions.

3. MISSING CUMULATIVE IMPACTS ANALYSIS

Similarly, the MND has no analysis of cumulative impacts. This is a particularly egregious error under CEQA where, as here, there are two proposed projects that are parts of the same overall project. (Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151, 166.)

Moreover, there are other development proposals in proximity to Golf Realty Fund's proposed project. Golf Realty Fund's proposed project could contribute to cumulative impacts with these other proposed projects, even if it did not have its own direct impacts. The MND does not give the City and the public adequate information to assess Golf Realty Fund's project's contribution to cumulative environmental impacts.

While the MND does address the Mandatory Findings of Significance, its response to CEQA Initial Checklist item XVIII. b) – *Does the project have impacts that are individually limited, but cumulatively considerable?* – cannot be supported by the discussion in the Initial Study or the technical reports. There is a reasonable likelihood that, when considered with the effects of past projects, the effects of current proposals, and the effects of probable future projects, Golf Realty Fund's proposed project will have a number of significant cumulative impacts. Unfortunately, the City has not provided adequate information for the public to assess this. But it is highly likely that the project could have significant cumulative impacts related to traffic, land use, loss of recreational facilities, visual impacts, water quality, and noise. The City must study the project's cumulative impacts on all resource areas in an environmental impact report.

Notably, the City's air quality consultant actually did find that the project causes a significant cumulative impact related to air quality: "Because of the PM-10 non-attainment status of the air basin, construction activity dust emissions are considered to have a cumulatively significant impact." (P. 20 of Air Quality Analysis.) Given that the project is known to have significant cumulative impacts for air quality, it is incumbent on the City to analyze the project for other potential cumulative impacts.

4. UNDERESTIMATION OF PROJECT IMPACTS
   Technical studies prepared for the project underestimate the project's potential impacts by ignoring certain elements of the proposed project. For example, is there dining space that could be used for events and therefore generate traffic and parking needs to be analyzed in Traffic and Parking Evaluation? How will the banquet and event spaces be used? Are there traffic and parking needs associated with tournaments, golf clinics, and/or education retreats? And what traffic and parking impacts result when all facilities are used at the same time?

SPECIFIC COMMENTS – INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

1. PROJECT DESCRIPTION
   The Project Description lacks sufficient detail to understand the project's design features, site design, and architecture. While the Project Description includes project statistics and phasing, it does not include descriptions, photographs, or rendering of the future structures. In fact, the only exhibits relative to project design included in the Project Description are those showing the project phasing and proposed landscaping.

   Additionally, the description of the proposed project is not consistent throughout the IS and in the technical studies. For example, on page 41, Aesthetics (1.c.), the maximum height of the golf clubhouse presented in this paragraph is 53.5 feet. However, Table 1 (page 4) identifies the maximum height as 50 feet. The Project Description includes a spa/fitness area. The IS refers to a fitness center; elsewhere, this project element appears to be described as a spa. The Parking Supply Analysis refers to a pool; however, the Project Description does not mention a pool. The Land Use discussion (page 80 of the IS) references a Plan Amendment; however, the Project Description does not include a Plan Amendment as one of the project actions. These inconsistencies make it difficult to review the IS and technical studies and evaluate and understand project impacts. Inconsistencies should be corrected throughout the document.

2. AESTHETICS
   The evaluation of impacts relative to Aesthetics lacks an analysis of the project's design features and architecture and how those will fit into the surrounding community, and it is impossible to determine if the project would substantially degrade the existing visual character of the site and it surroundings. The proposed project includes a large building (the golf course clubhouse) that will be up to 50 feet tall and approximately 11,500 square feet larger than the existing building. It also includes 27 new hotel units and five new single-family housing units. These are all significant additions to a project site with a low degree of development. The aesthetics of the project site and surrounding community will be substantially altered. The proposed landscaping will take time to mature and to soften the views. The project will result in a more densely developed Country Club which will result in reduction in the aesthetic quality of the area. The tennis courts are open facilities that act to provide open space in the area. The reduction in the number of tennis courts, and therefore open space, will only degrade the aesthetics of the area. An alternative site plan should be evaluated that opens up the villas and provides view corridors through the project similar to that which occurs with the existing tennis courts. An EIR is required to address project alternatives such as this.

The MND does not include view simulations with the initial and mature landscaping, so the public and the City lack adequate information to assess the project's aesthetic impacts. Despite this lack of information, the likelihood that the project may block or obstruct sensitive views cannot be determined with information presented in the MND, and it is likely that the project will have a significant impact on the viewshed. Accordingly, the City must prepare an EIR that more fully analyzes the project's impacts on aesthetics and community character.

3. AIR QUALITY

Page 15 of the Air Quality Analysis (Giroux & Associates, July 23, 2009) states, "*construction activity dust emissions are considered to have a cumulatively significant impact.*" Because the South Coast Air Basin is non-attainment for PM10, the air quality study makes clear that a project has a significant cumulative impact even if its PM10 emissions fall below South Coast Air Quality Management District's emission thresholds. Therefore, the project has a significant cumulative impact on PM10. Any additional PM10 emissions will make already unacceptable PM10 levels worse. This is true even if mitigation reduces the PM10 emissions from the project. It is not clear why the MND does not adopt the same conclusion as the air quality study on the significance of PM10 emissions. It may be that the MND is making a "de minimis" finding, which is unacceptable under CEQA. The air quality study's conclusion that the project has significant cumulative impacts related to PM10 is substantial evidence supporting a fair argument that the project may have significant impacts. Therefore, the City must prepare an environmental impact report for the project.

The MND brushes aside impacts to sensitive receptors. It is likely that junior tennis players or junior golfers use the Country Club facilities and would be exposed to various air pollutants during construction. Impacts to sensitive receptors should therefore be evaluated in an environmental impact report.

4. BIOLOGICAL RESOURCES

In conducting a review of the environmental documentation and associated materials for the Newport Beach Country Club project, a site visit was conducted. The property includes many mature trees, some of which will likely be removed to allow for the expanded project. Mature trees provide nesting opportunities for migratory birds and their removal or disturbance may cause a significant environmental impact. The City should analyze this potential impact in an environmental impact report for the project.

5. GREENHOUSE GAS EMISSIONS

Page 61 states: "*Because the Proposed Project will generate fewer GHG emissions than are generated under existing environmental conditions . . . it can be fairly stated that under any* (global climate change) *threshold which would be permitted by CEQA, the Proposed Project will not have a significant impact on global climate change.*" This statement may not be true. As noted below, the MND appears to use very aggressive and unrealistic assumptions about the number of trips the existing tennis courts produce (trips generate much of the project's greenhouse gases). A more realistic assessment of traffic may show that the project emits more greenhouse gases than the existing development. Similarly, a more realistic assessment of the proposed project's traffic may show that the project's other air quality impacts are worse than the MND describes. These potential impacts should be studied in an environmental impact report.

Page 62 includes a discussion of speculation and CEQA Guidelines Section 15145. The use of speculation as a way to reason away GHG emissions is inappropriate. Global climate change is now accepted as a reality, and increases in GHG emissions contribute to worsening the effects of global climate change.

6. LAND USE

The land use discussion states that the PC District regulations set the maximum height limit at 50-feet. The project is inconsistent with the draft regulation in that its maximum height is 53.5 feet. However, the IS fails to discuss whether this exceedence in height results in a significant impact relative to land use or aesthetics.

The Land Use discussion also relies on the conclusion of the Traffic and Parking Evaluation and the Newport Beach Country Club Parking Supply Analysis (LSA, August 20, 2008). As presented below, these analyses are flawed and in need of revisions.

The proposed transfer of development rights would violate the City's Zoning Code. The City's Zoning Code allows a transfer of development rights if certain enumerated conditions are met. Among those conditions are that the owner of the transferor site must enter into a legally binding agreement that is recorded against its property:

> Legal Assurances. A covenant or other suitable, legally binding agreement shall be recorded against the decreased site assuring that all of the above requirements will be met by the current and future property owners.

City of Newport Beach Municipal Code, § 20.63.080 (adopted November 1998). A legally binding agreement cannot be recorded against the transferor's property without its consent. This section of the Zoning Code also requires the City to make additional, specific findings before approving a transfer of development rights.

Similarly, the project requires a General Plan amendment and Zoning Code amendment to reflect the transfer of development intensity from Anomaly 43 to Anomaly 46.

The MND does not analyze any of these required elements. If, as it appears, the City is not going to require consent from the owner of the transferor site, is not going to require a General Plan amendment and Zoning Code amendment, and is not going to make the required findings, this will have significant land use implications. Most immediately, these requirements are designed to minimize land use conflicts from transfers of development rights. If the City does not follow its own procedures, the transfer involved in this proposed project could have land use impacts. Perhaps more importantly, by approving this project and its proposed transfer of development rights, the City would be setting a precedent. The City would be saying that any landowner can transfer development intensity from other landowners without following the requirements of the General Plan and Zoning Code. This precedent would have wide-ranging, largely negative impacts throughout the City on planning and land use issues. Indeed, there is no reason for the City to even engage in planning if it views potential development intensity as "floating" and able to be transferred without following the Zoning Code and General Plan. The City should study the impacts of the proposed transfer for this project, and for the precedent it sets, in an EIR.

7. NOISE

Issue question b) addresses the potential for excessive ground vibration or noise levels and concludes that there would be no significant impacts. Under the best case scenario, demolition and construction would occur over a 36-month period, assuming that all work at both the golf club and tennis court would occur concurrently. Worst case, demolition and construction could take 80 months, if work is done separately at the golf club and tennis club. In addition, the project involves the use of a rock crusher, which will crush asphalt and other materials for use in the development of the proposed project. Given the project's proposed demolition and construction activities and the duration that those activities could occur, it is questionable that impacts relative to ground borne vibration and noise would be less than significant and would not, at least, require mitigation. This should be studied in an EIR.

8. RECREATION

The project is not consistent with the General Plan Recreation Element. Development of the Bungalows will lead to the elimination of active recreational open space through the demolition of 17 tennis courts. The Newport Beach General Plan at page 8-7 includes a description of the City's recreational facilities and counts among those facilities private recreational uses stating, "Private facilities, including yacht clubs, golf courses, and country clubs are also facilities that serve residents of Newport Beach."

The General Plan at page 8-11 discusses the recreational issues and needs of the Newport Beach community. The section notes that, "[o]ther identified facility needs include bike and pedestrian trails, lighted tennis courts, dog parks, tot lots/playgrounds, golf driving range, public marine recreational and educational facilities, and public restrooms." The General Plan has identified a recreational need in the community for tennis courts, and notes that private facilities help to serve the recreational needs of Newport Beach families. The project will result in a reduction in the number of tennis courts available at the country club. The demolition of these courts is likely to shift the demand for tennis court space from the Country Club to the already burdened public recreational facilities in the City. Therefore, the project will result in further burdens being placed on public recreational facilities which is contrary to the policies in this Element of the General Plan.

In addition, General Plan policy R 1.7 (page 8-40) directs the City to coordinate with owners of private parks to conduct City recreation programs on private parkland. Similarly, policy R5.1 (page 8-44) directs the City to, "Utilize non-City recreational facilities and open space (e.g., Newport-Mesa Unified School District, county, and state facilities) to supplement the park and recreational needs of the community. Maintain the use of existing shared facilities, and expand the use of non-city facilities/amenities where desirable and feasible." Approval of the Project would undermine the ability of the City to coordinate public use of the tennis courts at the Country Club which would be contrary to the General Plan policy.

The MND fails to analyze whether the project's removal of tennis courts will overburden other tennis courts in the City. Given the large reduction in tennis courts (17 courts), it is likely that other tennis courts within the City will face much increased use, which could lead to their wearing out and needing to be replaced early or pressure for additional tennis courts to be built elsewhere. The City should analyze the project's impact on recreational facilities in an environmental impact report.

9. TRANSPORTATION/TRAFFIC

The discussion of traffic impacts associated with the project rely on the conclusion that the project would result in less trips than are generated by existing development on the project site. The analysis must also include an evaluation of the impact the project's trips have on the surrounding circulation network. The travel patterns for hotel trips and trips for tennis club users may be very different and create different demands on the circulation system. Until a detailed traffic analysis is completed, there is not enough information in the record on which to base the conclusion.

Moreover, the MND relies on trip generation rates from a manual to establish the number of trips the tennis courts currently generate. The MND did not measure the trips generated from the tennis courts, even though it would have been easy to do and is typically how existing traffic conditions are established. Given that the tennis courts are apparently underutilized (and thus are being eliminated), it seems likely that the trip generation rates used to estimate the traffic generated by the tennis courts exaggerates the traffic the courts actually generate. If traffic from the tennis courts is overestimated, then the project's traffic impacts would be understated in the MND.

The City should prepare an EIR for the project in which it measures the existing traffic baseline and uses that to analyze the project's traffic impacts. Without such an adequate baseline, the project's actual impacts on traffic are unknown and unknowable.

Relative to the discussion of construction traffic under issue question d), the project's construction scheduled is extremely long – 36 months as best case and 80 months as worst case. With such a long construction schedule, it would seem that local traffic will be interrupted for an extended period of time. This should be addressed under the discussion of increased hazards.

10. MANDATORY FINDINGS OF SIGNIFICANCE
As presented above, there are substantial inaccuracies, inconsistencies, and lack of analysis in the IS, which influence the determination in the Mandatory Findings of Significance. For example, under issue question (a), the fact that the IS does not address the potential that mature trees provide nesting areas for migratory birds, leads to a conclusion of "Less than Significant" that is not supported.

At the same time that the proposed Newport Beach Country Club project is being evaluated for environmental effects, a competing project is also being proposed by a different applicant for the golf club portion of the project site. That project proposes demolition of the existing golf clubhouse and construction of a new golf clubhouse and ancillary facilities resulting in 70,038 square feet – more than twice the size of the new golf clubhouse proposed by Golf Realty Fund. An EIR should be prepared that considers the cumulative effects that could result should the City approve International Bay Clubs' competing proposal for a 70,038 square foot golf clubhouse and Golf Realty Fund's proposal to expand other uses on the project site.

SPECIFIC COMMENTS – TECHNICAL STUDIES

TRAFFIC AND PARKING EVALUATION

1. Page 5, Table 2 – Project Trip Generation – Table 2 includes a quantification of traffic associated with the project, based on the proposed uses. However, all uses proposed for the project are not included in Table 2. For example, the project includes a fitness center and a spa (and perhaps a pool). (Note: It is unclear in the Project Description to the IS if these are three separate uses or one facility.) Additionally, the project includes banquet and event space and perhaps a dining room. Traffic associated with these uses is not included in the overall traffic assessment. These uses are separate from other uses proposed for the project and could generate traffic in addition to the trips shown in Table 2. A traffic analysis should be prepared that accurately evaluates all traffic associated with the proposed project.

2. Page 5 states, "*Since the proposed Newport Beach Country Club project will generate less daily traffic and peak hour traffic than the existing development on the site, no analysis of the project's traffic impact on the surrounding street system is necessary.*" Without an analysis of traffic impacts based on the existing conditions today (i.e., a baseline derived from on-the-ground observations), it is impossible to determine if traffic generated by the project would impact roadway segments and/or intersections. If there is the potential for traffic from the project to impact already congested roadways and/or intersections, significant impacts could result, despite the project's relatively small contribution. A traffic analysis is required for the project to determine the project's impacts on traffic circulation in the project area.

3. Page 7, Table 3 – Table 3 identifies parking requirements for the project. However, Table 3 does not include parking required for banquets and other events. Furthermore, the amount of parking required for the Bungalows (1 space per unit, plus 2) underestimates the project's parking needs. That rate is derived from the Newport Beach Country Club Parking Supply Analysis prepared by LSA (August 20, 2008). The Parking Supply Analysis states, "*Many of the two-bedroom bungalows may be occupied by a family or group traveling together and therefore would not typically require two parking spaces.*" An equally likely scenario is

that families or groups would rent a two-bedroom bungalow and arrive in separate vehicles, requiring more than one parking space per unit. Additionally, the Parking Supply Study assumes that the spa (fitness center) and pool are amenities for the Bungalow guests, who will already be parked in spaces to serve the Bungalows. In reality, though, as stated in the Parking Supply Analysis, "*The fitness area is primarily used by members and guests of the Bungalows, but may also be used by members of the Tennis Club.*"

4. Page 9 addresses a "parking easement" with the adjacent Corporate Plaza West development. However, there is no discussion of the details of that arrangement. How is the parking guaranteed?

   Additionally, the Traffic and Parking Evaluation states that "*in the event that a large gathering occurs during weekday business hours, which would cause the parking demand to exceed the parking supply on a typical weekday, a separate Parking Management Plan would be required to address off-site parking needs*". This implies that there is the potential for a significant parking impact that would be mitigated through a Parking Management Plan. However, the IS does not include such a mitigation measure, and there is no discussion relative to the contents of the Parking Management Plan. Therefore, the impacts have the potential to be significant and unmitigated.

NOISE

1. Page 8 states that "*Outdoor recreational activities at the Country Club are generally very low key (tennis and golf) and represent a continuation of existing activities. No impact analysis was therefore conducted for outdoor recreation*". While it may be true that recreational activities associated with the proposed project are low key, the Noise Report should include an evaluation and conclusion as to whether those activities generate significant noise levels in the surrounding environment.

PARKING SUPPLY ANALYSIS

1. Page 1 and 2 - The amount of parking required for the Bungalows (1 space per unit, plus 2) underestimates the project's parking needs. That rate is based on the assumption that "M*any of the two-bedroom bungalows may be occupied by a family or group traveling together and therefore would not typically require two parking spaces.*" An equally likely scenario is that families or groups would rent a two-bedroom bungalow and arrive in separate vehicles, requiring more than one parking space per unit.

2. The Parking Supply Analysis assumes that the spa (fitness center) and pool are amenities for the Bungalow guests, who will already be parked in spaces to serve the Bungalows. In reality, though, as stated in the Parking Supply Analysis, "*The fitness area is primarily used by members and guests of the Bungalows, but may also be used by members of the Tennis Club.*"

3. The Parking Supply Analysis addresses other uses that are not described in the Project Description of the IS. For example, page 3 of the Parking Supply Analysis references *"shotgun" golf tournaments*. Page 2 of the study states that the fitness center would be available for use by members and guests of the Bungalows and tennis club members, and identifies a 3,034 square foot dining room and 2,567 square feet of banquet space to be located at the golf clubhouse. These facilities would serve residents of the Villas, the Bungalows, and members of the tennis club. The facilities would also be available for "*private events sponsored by a golf member.*" The NPDES Technical Study references "*golf clinics*" and "*a venue for association meeting and/or educational retreats.*" It is unclear if the Parking Supply Analysis anticipates all of these uses. Additionally, there is no discussion of the potential parking needs if all proposed facilities are in use at one time and/or tournament(s) are also occurring.

4. Page 4 of the Parking Supply Analysis addresses a "parking easement" with the adjacent Corporate Plaza West development, which would provide 554 parking spaces to be used on *evenings, weekends, and holidays* and references *large events* and *large gatherings*. There is no analysis as to whether the additional 554 spaces would adequately serve any additional parking needs for the project. Additionally, there are no controls

that events at the Newport Beach Country Club which might require additional parking would, in fact, be limited to *evenings, weekends, and holidays*. Neither the Parking Supply Analysis nor the IS explain how the parking arrangement with Corporate Plaza West is implemented for the project and what City involvement there is in the lease arrangements. Therefore, it is inappropriate to assume that adequate parking would be available, and a potentially significant impact associated with parking could result from the project.

PHASE I ENVIRONMENTAL SITE ASSESSMENT

The Phase I Environmental Site Assessment is "*based on the planned continued use as a golf course*" and concludes, "*no further investigation is likely warranted at this time.*" However, the project proposed an intensification of uses on the project site. As specifically stated in the Phase I Environmental Site Investigation, "*Soil sampling would be recommended prior to any redevelopment of the subject property.*" Therefore, soil testing should be conducted, a new Phase I Environmental Site Assessment should be prepared, and the IS should be revised to document the findings of the new Phase I Environmental Site Assessment.

AIR QUALITY ANALYSIS

1. Page 14 states "*Dust is typically the primary concern during construction.*" It is unclear if the Air Quality Analysis includes impacts associated with the demolition and crushing activities. The Air Quality Analysis should include air quality impacts associated with demolition and rock crushing activities, as well as construction.

2. Page 15 acknowledges that only the construction schedule for the tennis club portion of the project was available, and that the Air Quality Analysis assumes a similar construction schedule for the golf club portion of the project. The Air Quality Analysis should be revised to clearly address both construction schedules.

   In reviewing the IS and Project Description, it is unclear if construction for the project overlaps (34 to 36 months) or occurs in a consecutive manner (80 months). If construction overlaps, impacts to air quality could be worsened. If construction is consecutive, impacts could be long-term in nature. Even with the shortest of construction schedules (34 to 36 months), construction impacts will occur for an extended period of time.

3. Page 15 states "*construction activity dust emissions are considered to have a cumulatively significant impact.*" Yet the IS states that there would be no significant air quality impacts. An environmental impact report should be prepared that analyzes this significant cumulative impact and the entire project.

4. Page 15 states, "*There are few sensitive receptors within 100 feet from the project construction perimeter*". This implies that there are some sensitive receptors that could be adversely affected by fine particulates. If that is the case, an evaluation of potential health risks to those "few sensitive receptors" should be conducted. These potential impacts should be evaluated in an EIR.

5. Page 16 – The table included on page 16 applies to the tennis club portion of the project. Is it reasonable to assume that similar equipment would be required for the golf club portion of the project? If not, what additional impacts could be expected from the golf club portion of the project?

6. Page 18 includes an unsupported analysis of potential health risks associated with diesel exhaust particulates, dismissing impacts by stating "*the toxicity of diesel exhaust is evaluated relative to a 24-hour per day, 365 days per year, 70-year lifetime exposure. Public exposure to heavy equipment emissions will be an extremely small fraction of the above dosage assumption . . . Any public health risk associated with project-related heavy equipment operations exhaust is therefore not quantifiable, but small*". If the public health risk is "not quantifiable", how can it be concluded to be "small"? Additionally, if construction occurs over an 36-month period (best

case scenario) or an 80-month period (worst case scenario), exposure to diesel particulates would occur over a long period of time. Given the lengthy construction period and lack of conclusive evidence regarding health risk from diesel particulates, the Air Quality Analysis should be revised to include a health risk assessment and an EIR should be prepared that includes this analysis.

7. Pages 19 and 20 address potential operational impacts of the project. That analysis is based on the information provided in the Traffic and Parking Evaluation prepared for the project. However, as discussed above, that evaluation is flawed and underestimates traffic associated with the project. Therefore, the evaluation of operational impacts must be revised to account for additional trips associated with the spa, fitness center, banquet facilities, event space, dining room, tournament play, golf clinics, association meetings, and educational retreats.

8. Page 20 and Table 5 – The URBEMIS2007 model used to calculate area source and operational emissions should be updated to reflect actual project completion dates. With a minimum 36-month construction schedule, the project will not be complete by 2012. Additionally, the result contained in Table 5 should not be evaluated against the existing project. Instead, a determination should be made as to whether emissions levels exceed SCAQMD thresholds.

GREENHOUSE GAS EMISSIONS

1. Page 25 states, "*all GHG emissions are considered to have a cumulative global impact. Implementation of reasonably available control measures is recommended . . . Measures that reduce trip generation or trip lengths, measures that optimize the transportation efficiency of a region, and measures that promote energy conservation within a development will reduce GHG emissions.*" The discussion goes on to recommend three GHG reduction measures:

   - Construct new commercial building to LEED specification.
   - Promote solid waste minimization and recycling.
   - Incorporate fast-growing, low water use landscape to enhance carbon sequestration and reduce water use.

   The GHG analysis does not provide any conclusion relative to whether the project results in significant impacts. It is unclear if the project is implementing any of these measures.

   Additionally, there is no discussion in the Air Quality/GHG Analysis or in the IS regarding project design features that promote sustainable development. Such features could help reduce the project's GHG emissions. For these reasons, it is unclear whether the project has successfully mitigated its cumulatively significant GHG impacts. The City should study the project's GHG emissions in an environmental impact report.

PRELIMINARY HYDROLOGY REPORT

The following potential impacts should be analyzed in an EIR:

1. Page 4 – The Preliminary Hydrology Report identifies the need for upsizing an existing storm drain. Does the project include upsizing the storm drain? If not, would any impacts on drainage (such as flooding) result?

2. Page 4 – The project requires construction of a new 30-inch RCP on an adjacent property. Has the adjacent property owner agreed? If not, is there a potential for impacts?

CONCLUSION

The Newport Beach Country Club Initial Study lacks sufficient detail and information, fails to evaluate project impacts against the existing environmental conditions, underestimates the potential for project impacts by ignoring project features which may generate traffic and parking and contribute to air quality impacts and GHG emissions, makes erroneous conclusions that are in conflict with or cannot be support by technical studies, ignores requirements of the Migratory Bird Act, and lacks an adequate evaluation of aesthetic and community character impacts. The City should prepare an EIR to fully analyze the project's potential impacts, thoroughly analyze the potential for cumulative impacts, and evaluate project alternatives that could reduce or avoid potentially significant environmental impacts.

Karen L. Ruggels

K L R planning

Karen Ruggels is a San Diego native, graduating from San Diego State University in 1980 with a Bachelor of Science Degree in Biology and a Minor in Geography. Beginning her planning career in the environmental field at CalTrans, Ms. Ruggels went on to work eight years for the City of San Diego, serving as Senior Planner, and subsequently 18 years in the private sector before starting her own consulting company in 2005.

Ms. Ruggels has over 30 years of professional planning, environmental analysis, and project management experience in both the public and private sectors. Her expertise includes site and policy planning, environmental review processing, environmental document preparation, planning document preparation, project management, resources management, writing and public presentations, and agency coordination. She has experience in preparing complex and technical Master Plans, Specific Plans, and other land use documents, as well as design guidelines, community plans and community plan amendments, and general plan amendments. Her project management skills have played a key role in obtaining approvals for a wide variety of projects ranging from Specific Plans to Planned Development/Tentative Map entitlements for mixed use, residential, institutions, commercial, and industrial uses. She is also skilled in preparing and processing resource agency permits (U. S. Army Corps of Engineers 404 permits, State Fish and Game Section 1600 permits).

EDUCATION

B.S., Biology (Minor, Geography), 1980, San Diego State University

PROFESSIONAL AFFILIATIONS

Association of Environmental Professionals (AEP)

American Planning Association (APA)

CERTIFICATIONS

Project Management for Planners, APA

Project Management, Ronald I. LaFleur, Cadence Management Corp.

Academy 2000, Supervisors Academy, Dr. Richard I. Lyles

PLANNING AND PROJECT MANAGEMENT EXPERIENCE

Ms. Ruggels has a lengthy career as a planner. Ms. Ruggels has processed virtually every entitlement approval through a variety of local jurisdictions, including:

- Community Plans and Community Plan Amendments
- Specific Plans and Specific Plan Amendments
- Master Plans
- Precise Plans
- Rezones
- Planned Development and Site Development Permits
- Coastal Plan Amendments and Coastal Development Permits
- Conditional Use Permits
- Major and Minor Use Permits
- Tentative Maps
- Street and Easement Vacations
- Lease of City Property

CURRENT AND RECENT REPRESENTATIVE PLANNING AND PROJECT MANAGEMENT PROJECTS

- Stone Creek – Community Plan Amendment/Master Plan/Rezone, City of San Diego
- San Diego Polo Club – Site Development Permit, City of San Diego
- The Watermark – Community Plan Amendment/Planned Development Permit/Rezone, City of San Diego
- Erma Road – Community Plan Amendment/Planned Development Permit, City of San Diego
- University Office and Medical Park – Specific Plan/General Plan Amendment, City of San Marcos
- Lux Art Institute – Major Use Permit Amendment, City of Encinitas
- Vulcan-Otay Mesa – Major Use Permit, County of San Diego
- Parcel Map 35212 – General Plan Amendment/Rezone/Parcel Map, Riverside County

Working with local community groups, other agencies, jurisdictions, and local interested citizens, Ms. Ruggels' abilities include understanding and analyzing the simplest to the most complex of issues. Ms. Ruggels' extensive experience in working directly with staff members of a variety of public jurisdictions and private clients has resulted in having achieved successful processing of projects. She works hard to ensure a smooth integration of work efforts with client staff assigned to the project. Her responsiveness, attention to staff requests, and undying commitment to the client ensures that schedules are met. Her intimate knowledge of planning and environmental review enable her to quickly adept to project changes, which often arise during preparation of the environmental document or as a result of project refinements following the public review period.

Additionally, Ms. Ruggels is accustomed to working with applicants and clients with seemingly impossible schedules. She is experienced in developing work programs which meet the project's scheduling challenges through efficient management techniques including, but not limited to, conducting tasks in a concurrent manner; close and regular coordination with the Project Team, City staff, and subconsultants; beginning tasks as early as possible; and avoiding down-time by active participation in all aspects of the project's review and approval processes.

Ms. Ruggels is also committed to her company's policy of active community involvement. She currently sits on the board of the Mission Valley Community Planning Group, is an alternative for the Grantville Redevelopment Area Stakeholders Committee, and is a past board member for the Mira Mesa Community Planning Group and the Navajo Community Planners. Karen believes this participation provides unique insight into the projects she works on providing a clearer understanding of the public's concerns and issues.

ENVIRONMENTAL REVIEW AND DOCUMENT PREPARATION/PROCESSING

Ms. Ruggels is proficient in environmental review and document preparation in compliance with NEPA and CEQA. As a seasoned environmental planner with a wide array of NEPA and CEQA experience, Ms. Ruggels has prepared and/or processed a full range of environmental documents and clearance, including:

- NEPA
  - Preliminary Environmental Study (PES)
  - Categorical Exclusion (CE)
  - Environmental Assessment (EA)
  - Environmental Impact Statements (EIS)
  - Section 4(f) Evaluation
- CEQA
  - Exemption
  - Addendum
  - Initial Study (IS)
  - Negative Declaration/Mitigated Negative Declaration (ND/MND)
  - Environmental Impact Report (EIR)
  - Supplemental/Subsequent Environmental Impact Report
  - Program Environmental Impact Report

Ms. Ruggels' knowledge of CEQA and NEPA is well recognized by her peers and respected by her clients. She is often requested to participate as a panel member in local annual CEQA conferences at both the "nuts and bolts" and the advanced levels. Ms. Ruggels believes that the only way to stay in-step with the constantly changing world of environmental review and land development is to regularly attend workshops and conferences that provide current policy review and update, as well as state-of-the art approaches to addressing environmental analyses and provide for innovative planning tools. Most recently, Ms. Ruggels has attended conferences focusing on sustainability and urban design, global climate change, water resources and availability, and changing regulations related to reducing greenhouse gas emissions and carbon footprint.

CURRENT AND RECENT REPRESENTATIVE ENVIRONMENTAL PROJECTS

- Uptown/North Park/Greater Golden Hill Community Plan Update PEIR, City of San Diego
- Quarry Falls Specific Plan PEIR, City of San Diego
- Stone Creek Master Plan EIR, City of San Diego
- The Watermark EIR, City of San Diego
- Otay Valley Quarry Reclamation Plan Amendment EIR, City of Chula Vista
- Espanada EIR, City of Chula Vista
- Village 7 SPA Plan EIR, City of Chula Vista
- Bella Lago EIR, City of Chula Vista
- US 95 EIS, Idaho Department of Transportation

Materials Received
Item No. 2d
Newport Beach Country Club
PA2005-140 and PA2008-152

Recorded in the County of Orange, California
Gary L. Granville, Clerk/Recorder
21.00
19970630399 4:29pm 12/08/97
005 22033011 22 42
T01 6 6.00 15.00 0.00 0.00 0.00 0.00

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

NBCC LAND
One Upper Newport Plaza
Newport Beach, CA 92660

TERMINATION OF ACCESS EASEMENT

THIS TERMINATION OF ACCESS EASEMENT is made as of November 30, 1996, by ARNOLD D. FEUERSTEIN and ALLAN FAINBARG (collectively referred to as "Owners"), who are the fee owners of the property located at 1500 E. Pacific Coast Highway, Newport Beach, California, legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property")

ARTICLE I
RECITALS

A. The Property is partially served for ingress and egress by a secondary access road which runs parallel and adjacent to Pacific Coast Highway and is located upon the adjacent Newport Beach County Club property (the "Secondary Access").

B. The Property's rights to use the Secondary Access is by way of that certain non-exclusive easement and right of vehicular and pedestrian ingress and egress set forth in that certain instrument entitled "Declaration of Access Easement" dated as of September 29, 1992 and recorded on October 1, 1992 as Instrument No. 92-662452 in the Official Records of Orange County, California, as amended by that certain First Amendment to Declaration of Access Easement dated as of October 15, 1992 and recorded March 1, 1993 as Instrument No. 93-0139175 in the Official Records, such easement being described on Exhibit "B" attached hereto and incorporated herein by this reference ("the Existing Easement").

C. The City of Newport Beach has requested that the Existing Easement be abandoned because the Secondary Access creates a hazardous traffic condition at the entry to Newport Beach Country Club and contributes to an unsightly condition along Pacific Coast Highway, and Owners concur and are willing to comply with the City's request to abandon the Existing Easement.

D. Owners of the adjacent Newport Beach Country Club property intend to remove the Secondary Access through a portion of the Newport Beach Country Club property described in Exhibit "C" and replace it with landscaping along Pacific Coast Highway per Newport Beach Country Club Master Plan, Tentative Tract 15348, and a landscape plan approved by the City of Newport Beach. The result will be a significant aesthetic improvement along Pacific Coast Highway.

ARTICLE II
TERMINATION OF ACCESS EASEMENT

1. Owners hereby terminate and relinquish their rights in the Existing Easement.

2. Owners' termination of the Existing Easement is conditioned on the City of Newport Beach not prohibiting ingress and egress to the Property primary and direct access from the existing two Pacific Coast Highway curb cuts in front of the Property which have been in use for many years.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first above written.

OWNERS:

Arnold D. Feuerstein

Allan Fainbarg

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On December 13, 1996, before me a Notary Public in and for said County and State, personally appeared Allan Fainbarg, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument he, or the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.

M. Priscilla Hanvelt
Notary Public in and for said County and State

HPR1 M. PRISCILLA HANVELT COMM. #1029404 NOTARY PUBLIC - CALIFORNIA ORANGE COUNTY My Comm. Expires June 10, 1998 HPR1

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On December 13, 1996, before me a Notary Public in and for said County and State, personally appeared Arnold D. Feuerstein, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument he, or the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.

M. Priscilla Hanvelt
Notary Public in and for said County and State

HPR1 M. PRISCILLA HANVELT COMM. #1029404 NOTARY PUBLIC - CALIFORNIA ORANGE COUNTY My Comm. Expires June 10, 1998 HPR1

DESCRIPTION OF PROPERTY

Lot 1 of Tract No. 11937, in the City of Newport Beach, County of Orange, State of California, as shown on a Map recorded in Book 656, Pages 24 through 29, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of said County, as corrected by that Tract or Parcel Map Certificate of Correction recorded February 5, 1991 as Instrument No. 91-052940 of Official Records.

NON-EXCLUSIVE EASEMENT FOR
INGRESS AND EGRESS PURPOSES

AN EASEMENT FOR INGRESS AND EGRESS PURPOSES OVER THE SOUTHWESTERLY 25.00 FEET OF PARCEL 3 OF PARCEL MAP NO. 79-704, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 152, PAGES 17 THROUGH 20, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

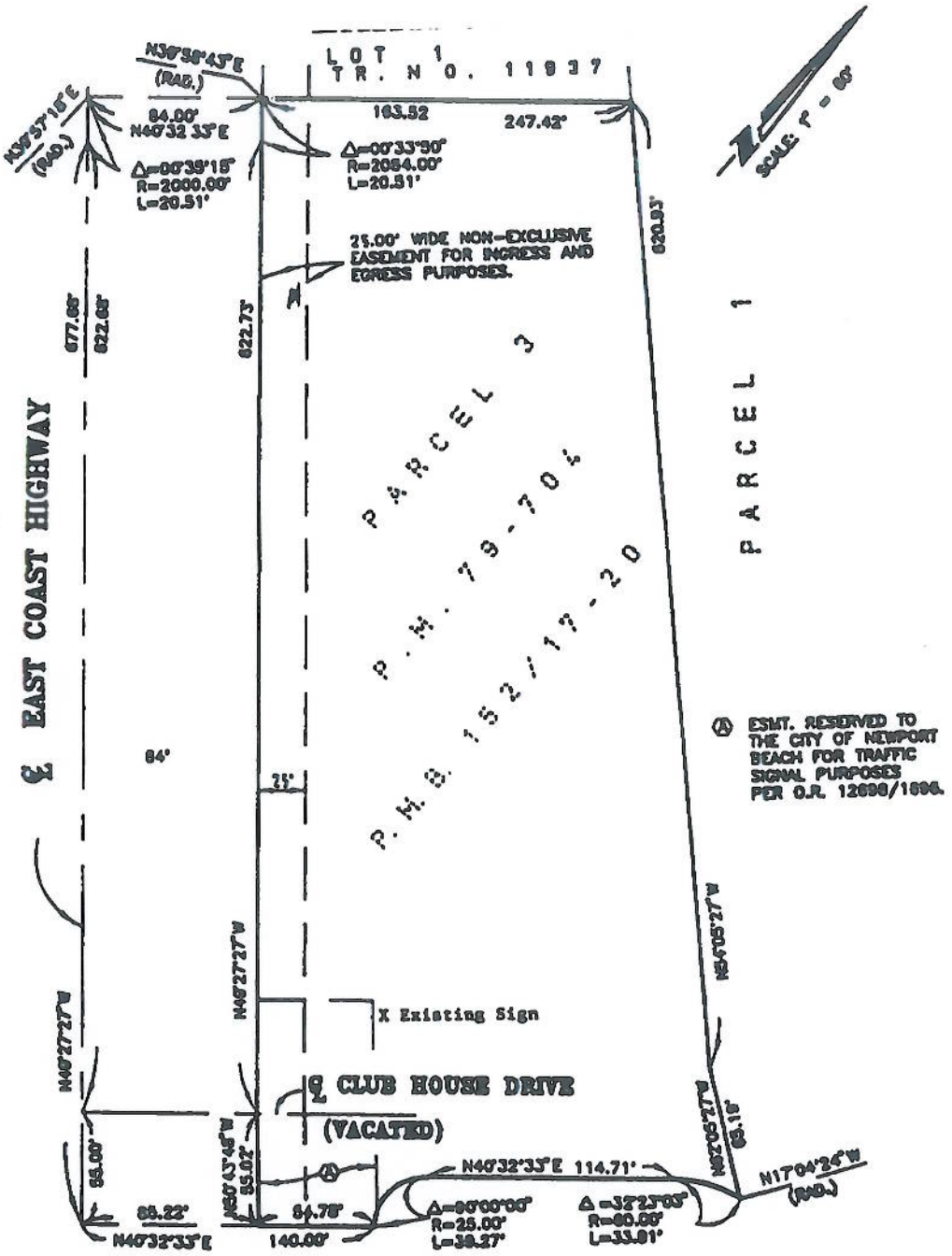


EXHIBIT "B"

terminat.acc

NEWPORT BEACH COUNTRY CLUB

(Portion containing Secondary Access)

Parcel 3 and Parcel 1 of Parcel Map No. 79-704, in the City of Newport Beach, County of Orange, State of California, as shown on a Map recorded in Book 152, Pages 17 through 20, inclusive, of Parcel Maps, in the Office of the County Recorder of said County.

LEGAL DESCRIPTION
THE TENNIS CLUB

Parcel 1 and Parcel 2 of Parcel Map 94-102.

LEGAL DESCRIPTION
THE GOLF CLUB

Parcel 1 of Parcel Map No. 79-704, in the City of Newport Beach, County of Orange, State of California, as per Map filed in Book 152, Pages 17 to 20, inclusive, of Parcel Maps, in the office of the County Recorder of Orange County.

NON-EXCLUSIVE EASEMENT FOR
INGRESS AND EGRESS PURPOSES

AN EASEMENT FOR INGRESS AND EGRESS PURPOSES OVER THE SOUTHWESTERLY 25.00 FEET OF PARCEL 3 OF PARCEL MAP NO. 79-704, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 152, PAGES 17 THROUGH 20, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

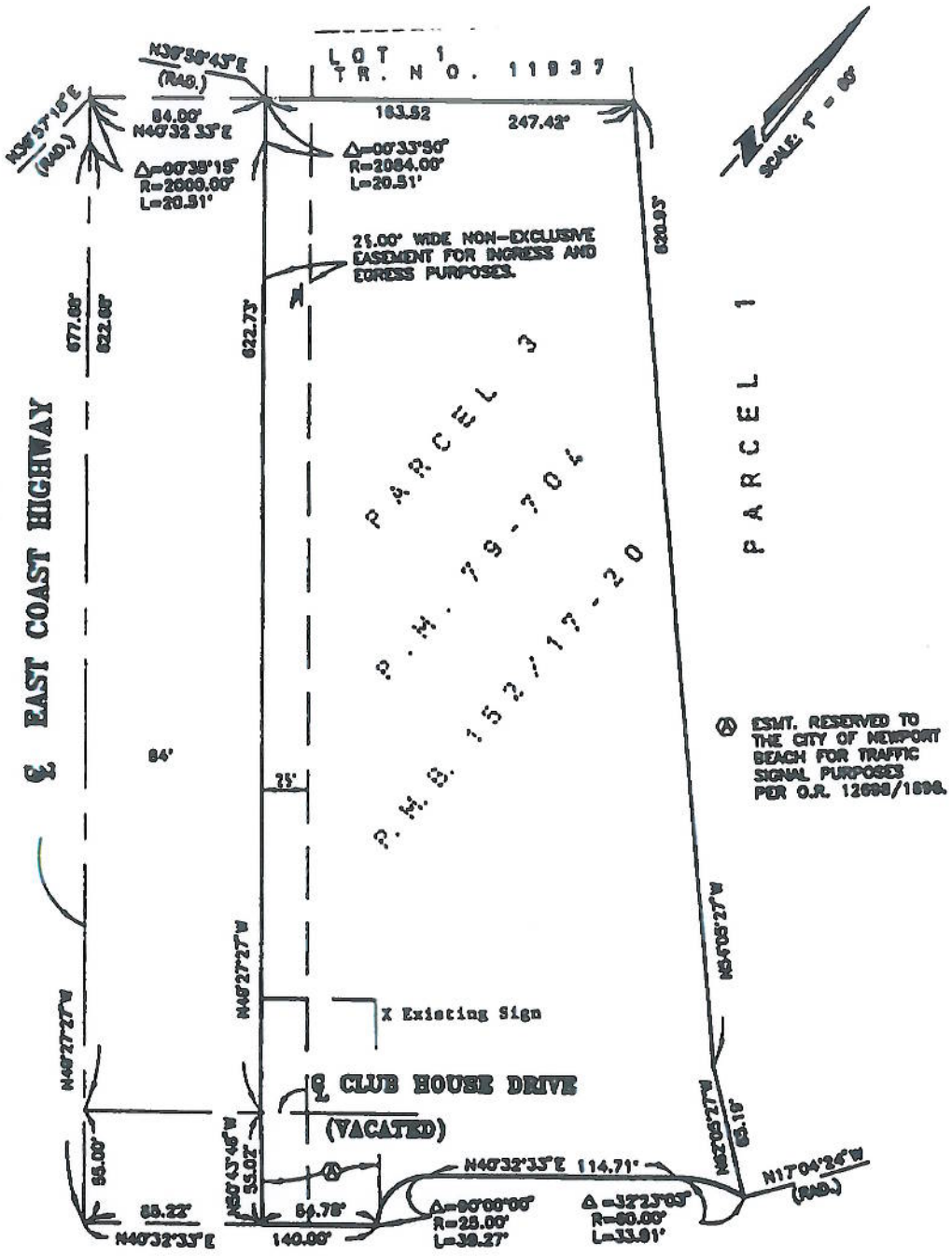


EXHIBIT "B"

terminat.acc

Draft Condition

Golf Realty Fund shall obtain HHR Newport Beach LLC's consent to the transfer of development rights from Anomaly 43 to Anomaly 46. The transfer shall not become effective until such consent is obtained.

Applicant Presentation
Item No. 2f
Newport Beach Country Club
PA2005-140

NEWPORT BEACH COUNTRY CLUB

Planned Community District

Application PA 2005-140

NEWPORT BEACH COUNTRY CLUB
PCD

Newport Beach Country Club - PCD

- Community Outreach
  - Stakeholder Input
  - Plan Evolution
- Master Plan
  - Golf Parking Lot
  - Golf Clubhouse
  - The Bungalows
  - The Villas
  - The Spa
  - Tennis Clubhouse
  - Stadium Court

MASTER PLAN

NEWPORT BEACH COUNTRY CLUB PCD

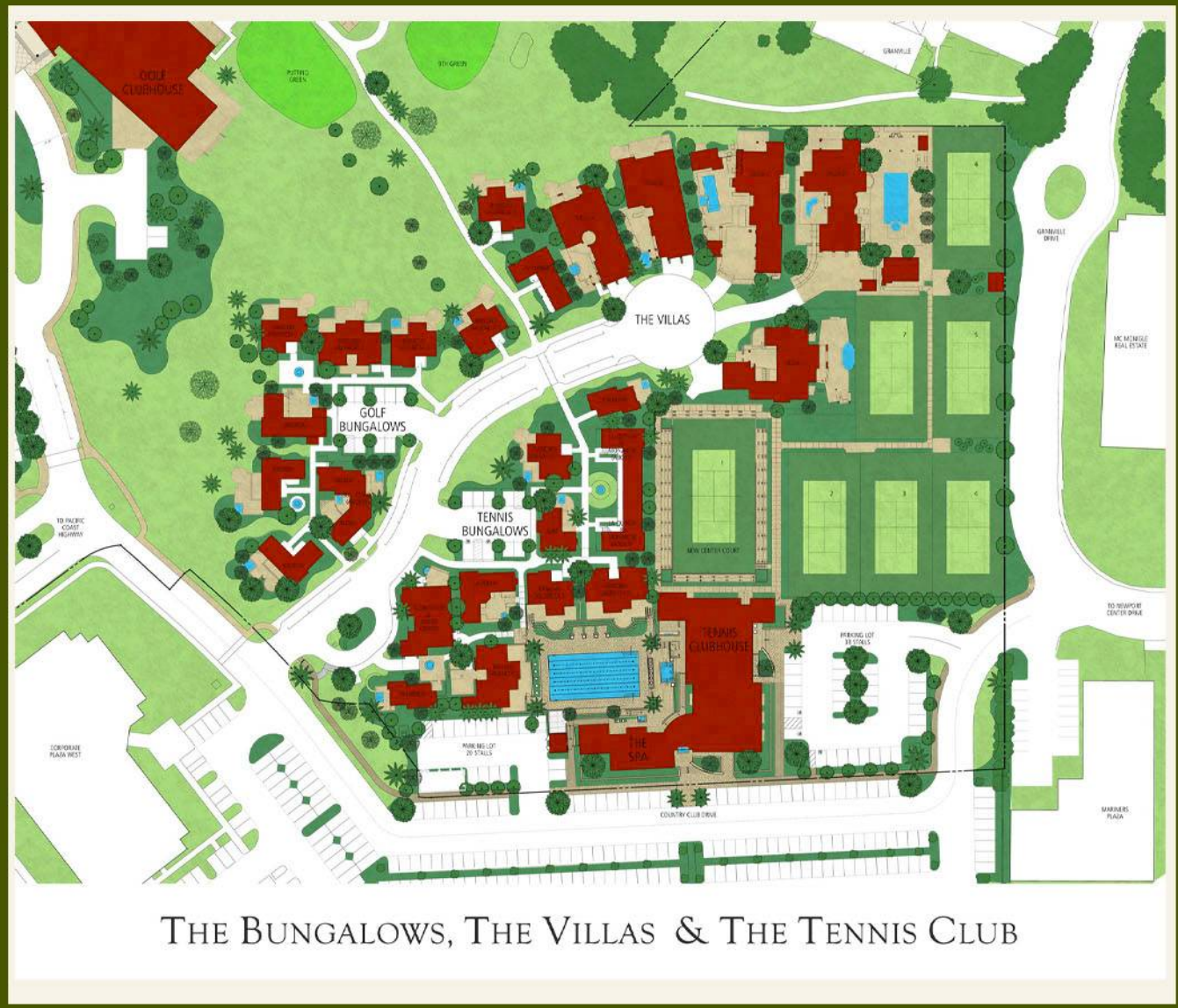
The Golf Clubhouse

- Addressed Irvine Terrace Concerns
  - 700' PCH Buffer
  - Parking Lot Design
- Golf Course
  - Enhanced - 18th & 15th Greens
  - Cart Storage Area & Fence Eliminated
- Building Footprint
  - Preserves Golf Course Views

Newport Beach Country Club PCD

World Class

- The Villas
- The Bungalows
- The Tennis Clubhouse
- The Stadium Courts
- Meeting Center



The Bungalows, The Villas & The Tennis Club

NEWPORT BEACH COUNTRY CLUB PCD

Meeting Center

- Concierge
- Media Room
- Board Room
- Library
- Wi Fi

The Bungalows Meeting Center

NEWPORT BEACH COUNTRY CLUB
PCD

Abundance of Amenities

- Bungalow Pool
  - Jacuzzi
  - Towel Bar
- Bungalow Spa
  - Treatment Rooms
  - Cardio Area
  - Pilates Area
- Locker Rooms
  - Steam Rooms

The Bungalows Amenities

NEWPORT BEACH COUNTRY CLUB
PCD

California Architecture

- Environmentally Responsible Design
- Inviting and Comfortable
- Windows
- Beach Stone
- Celebration of Coastal California

The Tennis Club

NEWPORT BEACH COUNTRY CLUB
PCD

World Class

- 27 Bungalows

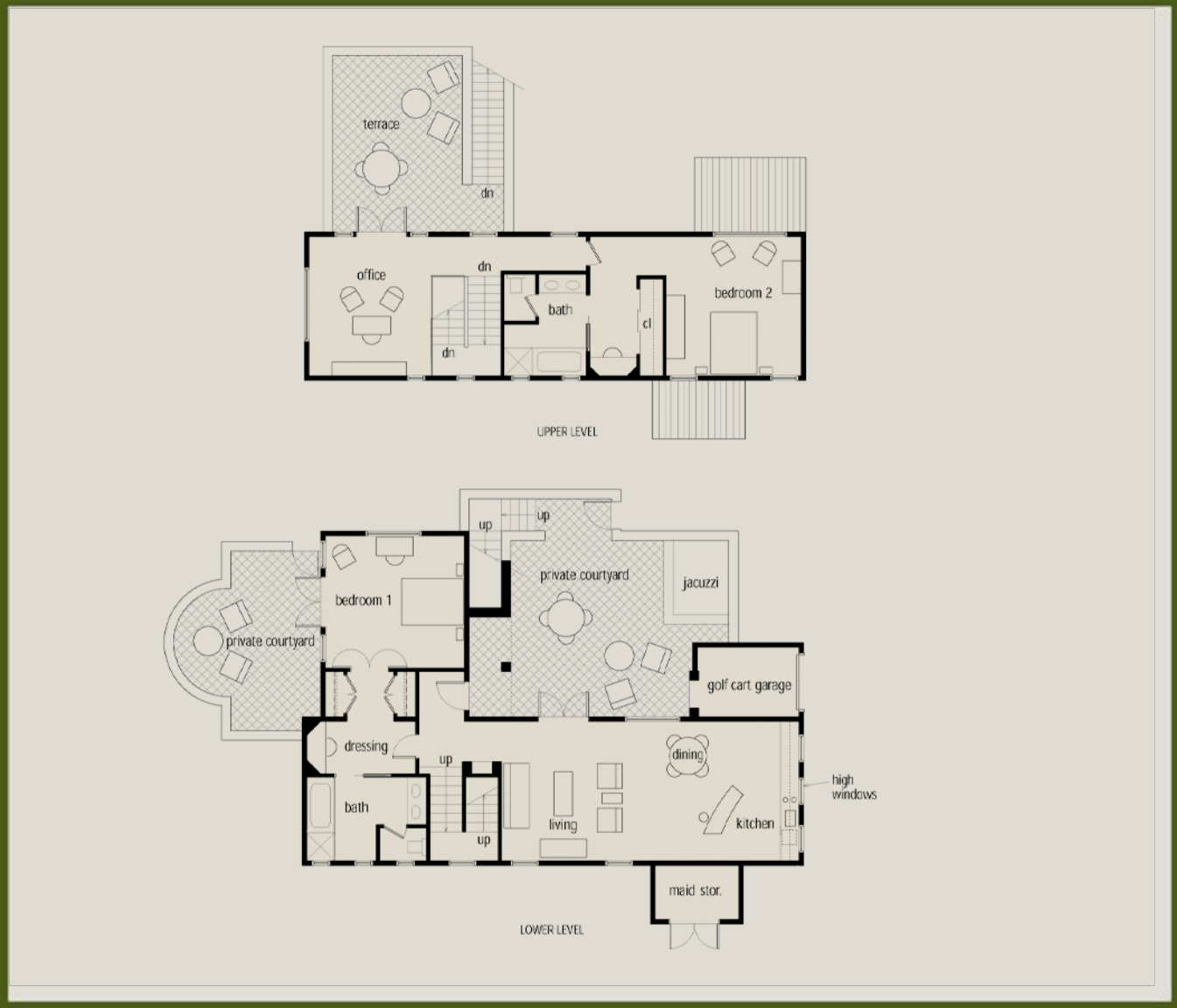
THE BUNGALOWS, THE VILLAS & THE TENNIS CLUB

NEWPORT BEACH COUNTRY CLUB
PCD

The Bungalows

Balboa

- 2,109 sq ft
- Three Bedroom



NEWPORT BEACH COUNTRY CLUB
PCD

The Bungalows

Rancho Valencia 1

- 1,035 sq ft
- One Bedroom

Rancho Valencia 2

- 1,545 sq ft
- Two Bedroom

Rancho Valencia 1

Rancho Valencia 2

NEWPORT BEACH COUNTRY CLUB
PCD

The Bungalows

Palmero

- 775 sq ft
- One Bedroom

Palmero

NEWPORT BEACH COUNTRY CLUB

The Golf Clubhouse

- Balanced Grading
- Elevation Changes
- Golf Course
  - Enhanced - 18th & 15th Greens
  - Cart Storage Area & Fence Eliminated
- Building Footprint
  - Preserves Golf Course Views

NEWPORT BEACH COUNTRY CLUB

World Class

First Floor

- Pro Shop
- The Grill
- Locker Rooms
- Plenty of Storage

NEWPORT BEACH COUNTRY CLUB

Just the Right Size

- Entry
  - Foyer
  - Lounge
  - Reception
- 19th Hole Terraces
- 19th Hole Fine Dining
- Grand Club Entry
- Offices
- Banquet Room
- Banquet Terrace

NEWPORT BEACH COUNTRY CLUB

- Architectural Style
- Authentic Materials
- Celebration of California Mediterranean Architecture

Golf Clubhouse Entry

Newport Beach Country Club

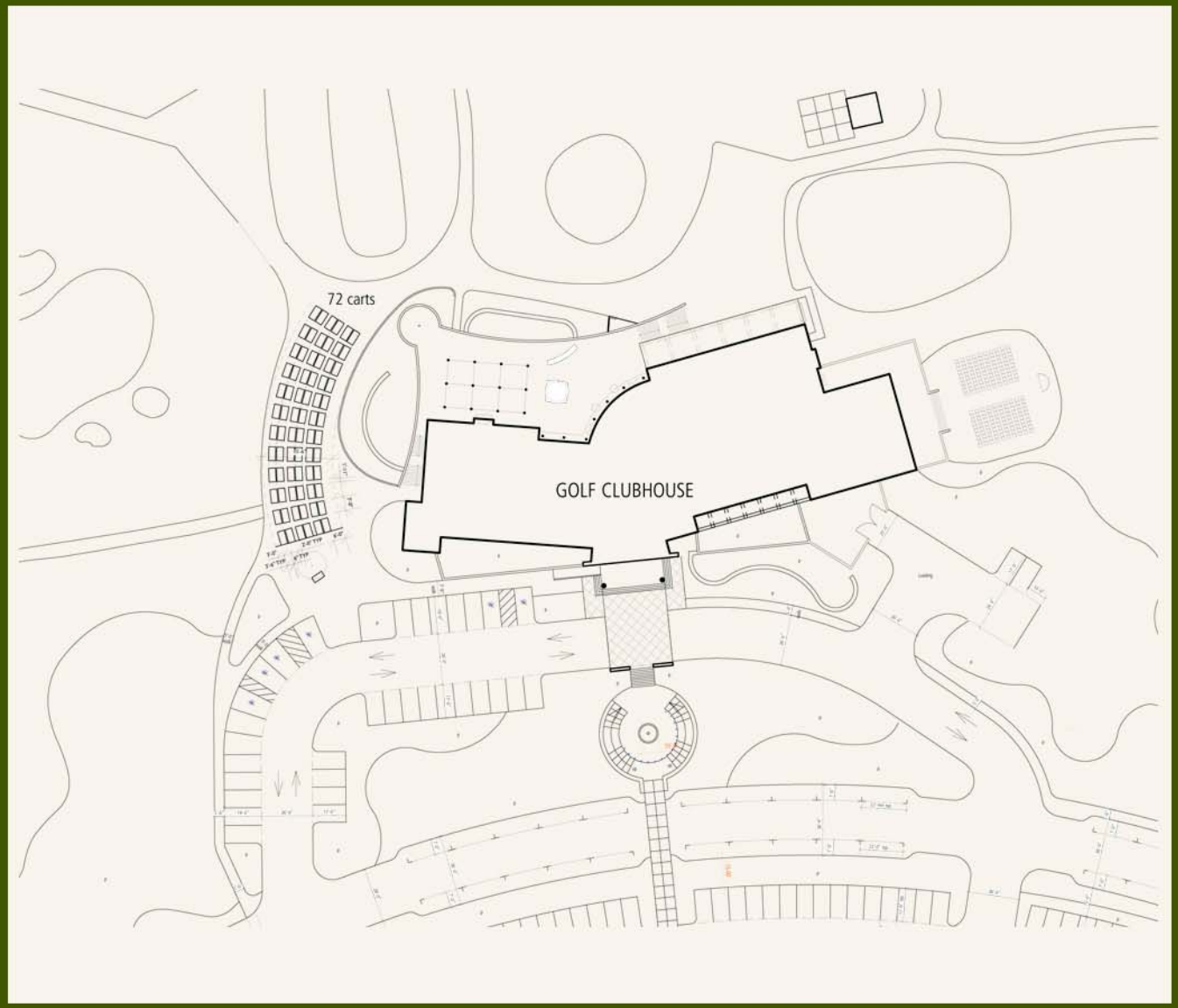
- Beautiful from Every Angle
- 19th Hole
- Wedding Lawn
- Pro Shop

Celebration of California Architecture

NEWPORT BEACH COUNTRY CLUB

Shotgun Cart Staging Plan

- Staging for 72 Golf Carts
  - 18 holes x 4 carts per hole



NEWPORT BEACH COUNTRY CLUB

Senior Classic Tournament Staging Plan

- Based on the 2011 Staging Plan filed with the City of Newport Beach